

## ***Announcement 09-05R***

***April 21, 2009***  
*(\*Reposted May 15, 2009)*

### ***Amends these Guides: Servicing***

### ***Reissuance of the Introduction of the Home Affordable Modification Program, HomeSaver Forbearance™, and New Workout Hierarchy***

#### **Introduction**

**This Announcement (09-05R) is a reissuance of Announcement 09-05, which was originally issued on March 4, 2009. This Announcement provides additional policy clarification and instruction and supersedes Announcement 09-05 in its entirety. Policy clarifications and new instructions that are incorporated into this Announcement are identified by bold type. (Other minor editorial changes are included in this document but not identified in bold.)**

***\*Reposted with “HAMP” in lieu of “HMP”.***

#### **Background**

On February 18, 2009, President Obama announced the Homeowner Affordability and Stability Plan to help up to 7 to 9 million families restructure or refinance their mortgage loans to avoid foreclosure. As part of this plan, the Treasury Department (Treasury) announced a national modification program aimed at helping 3 to 4 million at-risk homeowners – both those who are in default and those who are at imminent risk of default – by reducing monthly payments to sustainable levels. Treasury issued uniform guidance for loan modifications across the mortgage industry in Supplemental Directive 09-01 on April 6, 2009. This Announcement provides guidance to Fannie Mae servicers for adoption and implementation of the Home Affordable Modification Program (HAMP) for Fannie Mae loans.

Under the HAMP, servicers will use a uniform loan modification process to provide eligible borrowers with sustainable monthly payments. The HAMP implementation guidelines set forth in this Announcement apply to all eligible one- to four-unit owner-occupied properties securing Fannie Mae portfolio mortgage loans and MBS pool mortgage loans guaranteed by Fannie Mae. The HAMP will replace the Streamlined Modification Program introduced in Announcement 08-33 and the Early Workout™ program announced in Announcement 08-31. The HAMP will expire on December 31, 2012.

All Fannie Mae-approved servicers must participate in the program for all eligible Fannie Mae portfolio mortgage loans and MBS pool mortgage loans guaranteed by Fannie Mae.

Servicers may also elect to participate in the HAMP for other qualifying mortgage loans that:

- are not subject to Fannie Mae's credit loss guarantee, and
- are held by servicers in their own portfolios or are serviced for other portfolios or securitization trusts or investors.

These other qualifying mortgage loans are referred to as Non-GSE Mortgages in this Announcement.

As announced in Supplemental Directive 09-01, in order for a servicer to participate in the HAMP with respect to Non-GSE Mortgages, the servicer must execute a servicer participation agreement and related documents with Fannie Mae in its capacity as financial agent for the United States (as designated by Treasury).

This Announcement also introduces a new HomeSaver Forbearance™ foreclosure prevention option and a new Fannie Mae loan workout hierarchy. The HomeSaver Forbearance provides an additional foreclosure prevention option for borrowers who are NOT eligible for the HAMP.

This Announcement covers the following topics:

- HAMP Eligibility
- Underwriting
- Modification Process
- Servicer Delegation, Duties and Responsibilities
- Reporting Requirements
- Fees and Compensation
- FHA HOPE for Homeowners
- **Compliance**
- HomeSaver Forbearance
- New Workout Hierarchy
- Retirement of the Streamlined Modification Program (SMP) and the Early Workout Program

## **HAMP Eligibility**

### ***Servicing Guide, Part VII, Section 502.02: Modifying Conventional Mortgages***

A mortgage loan is eligible for the HAMP if it is a Fannie Mae portfolio mortgage loan or MBS pool mortgage loan guaranteed by Fannie Mae and all of the following criteria are met:

- The mortgage loan is a first lien conventional mortgage loan originated on or before January 1, 2009. Jumbo-conforming mortgage loans are eligible.
- The mortgage loan has not been previously modified under the HAMP.
- The mortgage loan is delinquent or default is reasonably foreseeable; mortgage loans currently in foreclosure are eligible.

- The mortgage loan is secured by a one- to four-unit property, one unit of which is the borrower's principal residence. Cooperative share mortgages and mortgage loans secured by condominium units are eligible for the HAMP. Loans secured by manufactured housing units are eligible for the HAMP.
- The property securing the mortgage loan must not be vacant or condemned.
- The borrower documents a financial hardship and represents that (s)he does not have sufficient liquid assets to make the monthly mortgage payments by completing a *Home Affordable Modification Program Hardship Affidavit* (Form 1021) and provides the required income documentation. The documentation supporting income may not be more than 90 days old (as of the date the servicer is determining HAMP eligibility).
- **The borrower currently has a monthly mortgage payment ratio greater than 31 percent.**
- A borrower in active litigation regarding the mortgage loan is eligible for the HAMP.
- The servicer may not require a borrower to waive legal rights as a condition of the HAMP.
- A borrower actively involved in a bankruptcy proceeding is eligible for the HAMP at the servicer's discretion. Borrowers who have received a Chapter 7 bankruptcy discharge in a case involving the first lien mortgage who did not reaffirm the mortgage debt under applicable law are eligible, provided the *Home Affordable Modification Trial Period Plan* (Form 3156) and *Home Affordable Modification Agreement* (Form 3157) are revised as outlined in the "Acceptable Revisions to HAMP Documents" section of this Announcement.
- The borrower agrees to set up an escrow account for taxes, hazard, and flood insurance prior to the beginning of the trial period if one does not currently exist.
- Mortgage loans subject to full lender recourse, including MBS pool mortgage loans and portfolio mortgage loans are ineligible for the Fannie Mae HAMP. However, servicers should consider these mortgage loans for the non-GSE HAMP.
- Borrowers may be accepted into the program if the Home Affordable Modification Trial Period Plan is in the servicer's possession on or before December 31, 2012.

**Note: Mortgage loans insured, guaranteed or held by a federal government agency (e.g., FHA, HUD, VA and Rural Development) may be eligible for the HAMP in the future and will be subject to guidance issued by the applicable agency.**

The HAMP documents are available on [eFannieMae.com](http://eFannieMae.com). Documents include the following:

- **SIGTARP Fraud Notice;**
- **Solicitation Letter;**
- **Home Affordable Modification Program Trial Period Plan Cover Letters (Income Stated and Income Verified);**
- **Home Affordable Modification Trial Period Plan (Form 3156, hereinafter referred to as the "Trial Period Plan");**
- **Home Affordable Modification Program Hardship Affidavit (Form 1021, hereinafter referred to as the "Hardship Affidavit");**
- **Home Affordable Modification Documentation Request Letter;**
- **IRS Form 4506-T (Request for Transcript of Tax Return);**
- **Home Affordable Modification Agreement Cover Letter;**

- **Home Affordable Modification Agreement (Form 3157, hereinafter referred to as the “Agreement”); and**
- **Home Affordable Modification Program Counseling Letter.**

## **Underwriting**

### **Determining Hardship**

Every borrower and co-borrower (if applicable) seeking a modification, whether in default or not, must sign a Hardship Affidavit that attests to and describes one or more of the following types of hardship:

1. A reduction in or loss of income that was supporting the mortgage loan, e.g., unemployment, reduced job hours, reduced pay, or a decline in self-employed business earnings.
2. A change in household financial circumstances, e.g., death in family, serious or chronic illness, permanent or short-term disability, or increased family responsibilities (adoption or birth of a child, taking care of elderly relatives or other family members).
3. A recent or upcoming increase in the monthly mortgage payment.
4. An increase in other expenses, e.g., high medical and health-care costs, uninsured losses (such as those due to fires or natural disasters), unexpectedly high utility bills, or increased real property taxes.
5. A lack of sufficient cash reserves to maintain payment on the mortgage loan and cover basic living expenses at the same time. Cash reserves include assets such as cash, savings, money market funds, marketable stocks or bonds (excluding retirement accounts and assets that serve as an emergency fund – generally equal to three times the borrower’s monthly debt payments).
6. Excessive monthly debt payments and overextension with creditors, e.g., the borrower was required to use credit cards, a home equity loan, or other credit to make the mortgage payment.

A borrower may provide evidence of hardship for reasons other than those explicitly listed above. A servicer who believes that Fannie Mae should consider a borrower for the HAMP for reasons not listed above must request prior written approval from Fannie Mae on a case-by-case basis. To request Fannie Mae approval, servicers must contact Fannie Mae at 1-888-FANNIE5 (1-888-326-6435) or by email to [servicing\\_solutions@fanniemae.com](mailto:servicing_solutions@fanniemae.com).

**Note:** The borrower is not required to have the Hardship Affidavit notarized.

### **Government Monitoring Data**

**The Department of Housing and Urban Development (HUD) has directed Fannie Mae, pursuant to HUD’s authority under Section 1325(2) of the Federal Housing Enterprises Financial Safety and Soundness Act (FHEFSSA), 24 C.F.R. 81.44(a) and (b), 12 C.F.R. 202.5(a)(2), and its general regulatory authority under the Fair Housing Act, 42 U.S.C. 3601 et seq. (the Act) to require servicers to request and report data on the race, ethnicity, and sex of borrowers involved in potential loan modifications under HAMP (“Government**

Monitoring Data”) in order to monitor compliance with the Act and other applicable fair lending and consumer protection laws. As a result of such direction from HUD, this section of the Announcement is incorporated by reference into the *Mortgage Selling and Servicing Contract* between Fannie Mae and its servicers and constitutes an agreement entered into between Fannie Mae, on behalf of HUD, and Fannie Mae’s approved servicers. As such, this is an agreement entered into by Fannie Mae’s approved servicers with an enforcement agency (i.e., HUD) to permit the enforcement agency to monitor or enforce compliance with federal law, within the meaning of 12 C.F.R. 202.5(a)(2).

HUD has specified that the Government Monitoring Data shall be collected in the Hardship Affidavit. Servicers must request, but not require, that each borrower who completes a Hardship Affidavit in connection with the HAMP furnish the Government Monitoring Data. If any borrower chooses not to provide the Government Monitoring Data, or any part of it, the servicer must note that fact on the Hardship Affidavit in the space provided. In such circumstances, and if the Hardship Affidavit is completed in a face-to-face setting, the servicer, its representative or agent shall then also note on the form, to the extent possible on the basis of visual observation or surname, the race, ethnicity and sex of any borrower or co-borrower who has not furnished the Government Monitoring Data. If any borrower declines or fails to provide the Government Monitoring Data on a Hardship Affidavit taken by mail or telephone or on the Internet, the data need not be provided. In such a case, the servicer must indicate that the Hardship Affidavit was received by mail, telephone, or Internet, if it is not otherwise evident on the face of the Hardship Affidavit.

### **Reasonably Foreseeable (Imminent) Default**

A borrower who is current, contacts the servicer for a modification, appears potentially eligible for a modification, and has suffered an eligible hardship (as described above) must be evaluated using the imminent default screen set forth below. This screen must also be used to evaluate such borrowers who are in default but less than 30 days delinquent.

#### **Evaluating the Borrower’s Financial Condition and Property Condition to Determine if Default is Imminent**

For borrowers who must be evaluated using the imminent default screen, the servicer must evaluate the borrower’s financial condition in light of the borrower’s hardship, as well as the condition of and circumstances affecting the property securing the mortgage loan. The servicer must **make a determination of whether the borrower satisfies the following imminent default screen:**

- **The borrower’s debt coverage ratio is less than 1.20. The debt coverage ratio is the borrower’s monthly disposable net income divided by the borrower’s current monthly principal and interest payment on the first lien mortgage loan (excluding tax and insurance payments). Monthly disposable net income is the borrower’s monthly gross income less (1) monthly payroll deductions, (2) monthly escrow allocations of property taxes, property insurance and mortgage insurance premiums, (3) monthly homeowner’s or condominium association fees, (4) monthly allocations of all other monthly credit**

obligations, (5) all other reasonable living expenses allocated monthly, and (6) any other monthly net negative amounts paid or incurred by borrower (such as negative rental income, mortgage loan payments on investment properties); and

- The borrower's cash reserves are less than three times the current monthly mortgage payment, including tax and insurance payments (using estimated payments if the mortgage loan is not currently escrowed). Cash reserves are liquid assets the borrower has available for withdrawal from any financial institution or brokerage firm, including checking and savings accounts, certificates of deposit (even if held for an extended time), mutual funds, money market funds, stocks or bonds.

Servicers must obtain a completed *Borrower's Financial Statement* (Fannie Mae Form 1020 or 1020S) from the borrower(s) to evaluate the borrower's financial condition in determining whether the borrower satisfies the imminent default screen, and must also obtain a current credit report for the borrower(s) to validate and supplement the borrower's information. As an alternative, the servicer may customize a financial form using its own letterhead so long as it collects the same information, or it may use Freddie Mac Form 1126, *Borrower Financial Information*. The servicer should request such other documents from borrower(s) as deemed necessary to evaluate the borrower's financial condition.

### **Documenting the Basis for Satisfying the Imminent Default Screen**

A servicer must document in its servicing system the basis for its determination that the borrower satisfies the imminent default screen. The servicer's determination must include identification of the borrower's hardship, which will generally be identified in the Hardship Affidavit, and the anticipated or actual timing of the default. The servicer's documentation must also include the information regarding the borrower's financial condition utilized in determining that the borrower satisfies the imminent default screen as required above, as well as the condition and circumstances of the property securing the mortgage loan. The servicer must report the reason(s) for the anticipated or actual delinquency along with the delinquency status code 09 – Forbearance, during the trial payment period.

### **Borrower Solicitation**

Servicers are prohibited from soliciting borrowers who are current or less than 30 days delinquent for participation in the HAMP. However, if such a borrower contacts the servicer, the servicer may consider the HAMP as a viable foreclosure prevention alternative. The servicer must make a determination that the borrower satisfies the imminent default screen prior to sending a firm offer to such a borrower.

### **Net Present Value (NPV) Test**

All loans that meet the HAMP eligibility criteria and either satisfy the imminent default screen (as described above) or are 30 or more days delinquent must be evaluated using a standard NPV test for reporting purposes. The servicer must maintain detailed documentation of the NPV model and version used, all NPV inputs and assumptions and

**the NPV results.** However, the result of the NPV test is not used to make the decision whether or not to modify a mortgage loan owned or securitized by Fannie Mae.

**The NPV Model is available on the Home Affordable Modification servicer web portal accessible through [HMPAdmin.com](http://HMPAdmin.com). On this portal, servicers will have access to the NPV model as well as the NPV User Guide, providing detailed guidelines for submitting proposed modification data.**

**A servicer having at least a \$40 billion servicing book will have the option to create a customized NPV model that uses a set of default rates and redefault rates estimated based on the experience of its own portfolios, taking into consideration, if feasible, current LTV, current monthly mortgage payment, current credit score, delinquency status and other loan or borrower attributes. Detailed guidance on required inputs for a customized NPV model is forthcoming on [HMPAdmin.com](http://HMPAdmin.com).**

To obtain a property valuation input for the NPV model, servicers may use either an automated valuation model (AVM), provided that the AVM renders a reliable confidence score, or a broker price opinion (BPO). Servicers may use an AVM provided by one of the GSEs. As an alternative, servicers may rely on their own internal AVM provided that:

- the servicer is subject to supervision by a Federal regulatory agency,
- the servicer's primary Federal regulatory agency has reviewed the model, and
- the AVM renders a reliable confidence score.

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 or a property valuation method acceptable to the servicers' 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 property valuation used cannot be more than 90 days old from the date of the NPV calculation.**

**The servicer should obtain the results of the NPV model at the time of the HAMP eligibility determination. Additionally, if the verified income evidenced by the borrower's income documentation differs from the initial income information obtained from the borrower, a new NPV result must be obtained as a part of a reevaluation of the borrower's HAMP eligibility (as outlined in the "Trial Payment Period" section of this Announcement).**

## **Verifying Borrower Income and Occupancy Status**

Servicers may use recent verbal financial information (provided 90 days or less from the date the servicer is determining HAMP eligibility) obtained from the borrower (the term "borrower" includes any co-borrower) to assess the borrower's eligibility and to prepare and send to the borrower a solicitation indicating the borrower may qualify for the HAMP and an offer of a Trial Period Plan. When the borrower returns the Trial Period Plan and related documents, the servicer must review them to verify the borrower's financial information and eligibility.

**As an alternative, the servicer may require a borrower to submit the required documentation to verify the borrower's eligibility and income prior to preparing a Trial Period Plan. Upon receipt of the documentation and determination of the borrower's eligibility, the servicer may prepare and send to the borrower a firm offer solicitation indicating the borrower is eligible for the HAMP using the SIGTARP Fraud Notice, the HAMP Trial Period Plan Cover Letter (Step One - Income Verified), and the Trial Period Plan.**

A borrower is eligible for the HAMP if the verified income documentation confirms that the monthly mortgage payment ratio prior to the modification is greater than 31 percent. For purposes of this Announcement, "monthly mortgage payment ratio" is the ratio of the borrower's current monthly mortgage payment to the borrower's monthly gross income (or the borrowers' combined monthly gross income in the case of co-borrowers).

### **Determining the Monthly Mortgage Payment**

The "monthly mortgage payment" includes the monthly payment of principal, interest, property taxes, hazard insurance, flood insurance, condominium association fees and homeowner's association fees, as applicable (including any escrow payment shortage amounts subject to the 60-month repayment plan). When determining a borrower's monthly mortgage payment ratio, servicers must adjust the borrower's current mortgage payment to include, as applicable, property taxes, hazard insurance, flood insurance, condominium association fees and homeowner's association fees if these expenses are not already included in the borrower's payment. The monthly mortgage payment must not include mortgage insurance premium payments or payments due to holders of subordinate liens.

### **Determining Gross Monthly Income**

The borrower's "monthly gross income" is the borrower's income amount before any payroll deductions and includes wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, other compensation for personal services, Social Security payments, including Social Security received by adults on behalf of minors or by minors intended for their own support, and monthly income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, unemployment benefits, rental income and other income. If only net income is available, the servicer must multiply the net income amount by 1.25 to estimate the monthly gross income.

**Servicers should include non-borrower household income in monthly gross income if it is voluntarily provided by the borrower and if there is documentary evidence that the income has been, and can reasonably continue to be, relied upon to support the mortgage payment. All non-borrower household income included in monthly gross income must be documented and verified by the servicer using the same standards for verifying a borrower's income. (An example of non-borrower income is boarder income.)**

**If the verified income evidenced by the borrower's documentation exceeds the initial income information used by the servicer to solicit or place the borrower in the trial period**

**by more than 25 percent, the borrower must be reevaluated based on the program eligibility and underwriting requirements. If this reevaluation determines that the borrower is still eligible, new documents must be prepared and the borrower must restart the trial period.**

### **Documenting Gross Monthly Income**

All parties whose income was used to qualify for the original mortgage note must submit income documentation which must not be more than 90 days old from the date HAMP eligibility is determined.

The borrower must provide certain financial information to the servicer as outlined below.

If the borrower is employed:

- A signed copy of the most recently filed federal income tax return, including all schedules and forms, if available,
- A signed IRS Form 4506-T (Request for Transcript of Tax Return), and
- Copies of the two most recent paystubs indicating year-to-date earnings.
- For additional income such as bonuses, commissions, fees, housing allowances, tips and overtime, a servicer must obtain a letter from the employer stating that the income will in all probability continue.

If the borrower is self-employed:

- A signed copy of the most recent federal income tax return, including all schedules and forms, if available,
- A signed IRS Form 4506-T (Request for Transcript of Tax Return),
- The most recent quarterly or year-to-date profit and loss statement for each self-employed borrower, and
- **Other reliable third-party documentation the borrower voluntarily provides.**

**Note: For both employed and self-employed borrowers, if the borrower does not provide a signed copy of the most recently filed federal income tax return, or if the Compliance Agent (described in the Compliance section) so requires, the servicer must submit the Form 4506-T to the IRS to request a transcript of the return.**

If the borrower elects to use alimony or child support income to qualify, acceptable documentation includes:

- Photocopies of the divorce decree, separation agreement or other type of legal written agreement or court decree that provides for the payment of alimony or child support and states the amount of the award and the period of time over which it will be received. Servicers must determine that the income will continue for at least three years, and
- Documents supplying reasonably reliable evidence of full, regular and timely payments, such as deposit slips, bank statements or signed federal income tax returns.

If the borrower has other income such as social security, disability or death benefits, or a pension:

- Acceptable documentation includes letters, exhibits, a disability policy or benefits statement from the provider that states the amount, frequency and duration of the benefit. The servicer must determine that the income will continue for at least three years, and
- The servicer must obtain copies of signed federal income tax returns, IRS W-2 forms, or copies of the two most recent bank statements.

**If the borrower receives public assistance or collects unemployment:**

- **Acceptable documentation includes letters, exhibits or a benefits statement from the provider that states the amount, frequency, and duration of the benefit. The servicer must determine that the income will continue for at least nine months.**

If the borrower has rental income, acceptable documentation includes:

- Copies of all pages from the borrower's most recent two years of signed federal income tax returns and Scheduled E – Supplemental Income and Loss. The monthly net rental income to be calculated for HAMP purposes must equal 75 percent of the gross rent, with the remaining 25 percent being considered vacancy loss and maintenance expense.

### **Verifying Occupancy**

A servicer must confirm that the property securing the mortgage loan is the borrower's primary residence as evidenced by the most recent signed federal income tax return (**or transcript of tax return obtained from the IRS**), a credit report, **and one other form of documentation that would supply reasonable evidence that the property is the borrower's primary residence (such as utility bills in the borrower's name).**

A servicer is not required to modify a mortgage loan if there is reasonable evidence indicating the borrower submitted false or misleading information or otherwise engaged in fraud in connection with the modification.

### **Standard Modification Waterfall**

Servicers must apply the proposed modification steps enumerated below in the stated order of succession until the borrower's monthly mortgage payment ratio is reduced as close as possible to 31 percent, without going below 31 percent (the "target monthly mortgage payment ratio").

**Servicers must request prior written approval from Fannie Mae to deviate from the modification steps enumerated below or to reduce the borrower's monthly mortgage payment ratio below 31 percent. Prior written approval may be requested by submitting a non-delegated case into the HomeSaver Solutions® Network (HSSN). If approval is granted, borrower and servicer incentive payments for these modifications will be paid based on modification terms that reflect the target monthly mortgage payment ratio of 31 percent.**

**In the event that a modification step (e.g., principal forbearance) is prohibited under applicable state law, a servicer may skip the modification step without obtaining Fannie Mae's prior written approval.**

Note: If a borrower has an ARM loan or interest-only mortgage loan, the existing interest rate will convert to a fixed interest rate, fully amortizing mortgage loan.

**Step 1:** Capitalize accrued interest, out-of-pocket escrow advances to third parties and any required escrow advances that will be paid to third parties by the servicer during the trial period and servicing advances paid to third parties in the ordinary course of business and not retained by the servicer, if allowed by state law. Late fees may not be capitalized and must be waived if the borrower satisfies all conditions of the Trial Period Plan. **If applicable state law prohibits capitalization of past due interest or any other amount, the servicer must collect such funds from the borrower over a 60-month repayment period unless the borrower decides to pay the amount upfront.**

**Step 2: Reduce the interest rate. If the loan is a fixed rate mortgage loan or an ARM loan, then the starting interest rate is the current interest rate (the note rate).**

**Reduce the starting interest rate in increments of .125 percent to get as close as possible to the target monthly mortgage payment ratio. The interest rate floor in all cases is 2.0 percent.**

- **If the resulting rate is below the Interest Rate Cap, this reduced rate will be in effect for the first five years followed by annual increases of one percent per year (or such lesser amount as may be needed) until the interest rate reaches the Interest Rate Cap, at which time it will be fixed for the remaining loan term.**
- **If the resulting rate exceeds the Interest Rate Cap, then that rate is the permanent rate.**

**The “Interest Rate Cap” is the Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) Rate for 30-year fixed rate conforming mortgage loans, rounded to the nearest 0.125 percent, as of the date that the Agreement is prepared.**

**Step 3:** If necessary, extend the term and reamortize the mortgage loan by up to 480 months from the modification effective date (i.e., the first day of the month following the end of the trial period) to achieve the target monthly mortgage payment ratio. Negative amortization after the effective date of the modification is prohibited.

**Step 4:** If necessary, the servicer must provide for principal forbearance to achieve the target monthly mortgage payment ratio. The principal forbearance amount is non-interest bearing and non-amortizing. The amount of principal forbearance will result in a balloon payment fully due and payable upon the earliest of the borrower’s transfer of the property, payoff of the interest bearing unpaid principal balance (UPB) or maturity of the mortgage loan. The modified interest-bearing balance (i.e., the unpaid principal balance excluding the deferred principal balloon amount) must create a current mark-to-market LTV (current LTV based upon the new valuation) greater than or equal to 100 percent if the result of the NPV test is negative. A principal write-down or principal forgiveness is prohibited on Fannie Mae mortgage loans.

## Verifying Monthly Gross Expenses

A servicer must obtain a credit report for each borrower or a joint report for a married couple who are co-borrowers to validate installment debt and other liens. In addition, a servicer must consider information concerning monthly obligations obtained from the borrower either verbally or in writing. The “monthly gross expenses” equal the sum of the following monthly charges:

- The monthly mortgage payment, including any mortgage insurance premiums, **taxes, property insurance, homeowner’s or condominium association fee payments and assessments related to the property whether or not they are included in the mortgage payment.**
- **Monthly payments on all closed-end subordinate mortgages.**
- Payments on all installment debts with more than 10 months of payments remaining, including debts that are in a period of either deferment or forbearance. When payments on an installment debt are not on the credit report or are listed as deferred, the servicer must obtain documentation to support the payment amount included in the monthly debt payment. If no monthly payment is reported on a student loan that is deferred or is in forbearance, the servicer must obtain documentation verifying the proposed monthly payment amount, or use a minimum of 1.5 percent of the balance.
- Monthly payment on revolving or open-end accounts, regardless of the balance. In the absence of a stated payment, the payment will be calculated by multiplying the outstanding balance by 3 percent.
- Monthly payment on a home equity line of credit (HELOC) must be included in the payment ratio using the minimum monthly payment reported on the credit report. If the HELOC has a balance but no monthly payment is reported, the servicer must obtain documentation verifying the payment amount, or use a minimum of one percent of the balance.
- Alimony, child support and separate maintenance payments with more than 10 months of payments remaining, if supplied by the borrower.
- Car lease payments, regardless of the number of payments remaining.
- Aggregate negative net rental income from all investment properties owned, if supplied by the borrower.
- Monthly mortgage payment for a second home (principal, interest, taxes and insurance and, when applicable, mortgage insurance, leasehold payments, homeowner association dues, condominium unit or cooperative unit maintenance fees (excluding unit utility charges)).

## Total Monthly Debt Ratio

The borrower’s total monthly debt ratio (“back-end ratio”) is the ratio of the borrower’s monthly gross expenses divided by the borrower’s monthly gross income. Servicers will be required to send the **HAMP Counseling Letter** to borrowers with a post-HAMP modification back-end ratio equal to or greater than 55 percent. The letter states that the borrower must work with a HUD-approved housing counselor on a plan to reduce their total indebtedness below 55 percent. The letter also describes the availability and advantages of counseling and provides a list of HUD-approved housing counseling agencies and directs the borrower to the appropriate HUD website where such information is located. The borrower must represent in writing in the HAMP documents that (s)he will obtain such counseling.

Fannie Mae encourages face-to-face counseling; however, telephone counseling is also permitted from HUD-approved housing counselors that cover the same topics as face-to-face sessions. Telephone counseling sessions provide flexibility to borrowers who are unable to attend face-to-face sessions or who do not have an eligible provider within their area.

A list of approved housing counseling agencies is available at [hud.gov](http://hud.gov) or by calling the toll-free housing counseling telephone referral service at 1-800-569-4287. A servicer must retain in its mortgage files evidence of the borrower notification.

**There is no charge to either the borrower or the servicer for this counseling.**

## **Mortgages with No Due-on-Sale Provision**

If a mortgage loan that is not subject to a due-on-sale provision is modified under the HAMP, the borrower agrees that the HAMP will cancel the assumability feature of that mortgage loan.

## **Escrow Accounts**

All of the borrower's monthly payments must include a monthly escrow amount **unless prohibited by applicable law**. The servicer must assume full responsibility for administering the borrower's escrow deposit account in accordance with the mortgage documents and all applicable laws and regulations. If the mortgage loan being considered for the HAMP is a non-escrowed mortgage loan, the servicer must establish an escrow deposit account in accordance with the *Servicing Guide*, Part III, Sec. 103: Escrow Deposit Accounts. The escrow account must be established prior to the beginning of the trial period.

Servicers are encouraged to perform an escrow analysis prior to establishing the trial period payment. When performing an escrow analysis, servicers should take into consideration tax and insurance premiums that may come due during the trial period. When the borrower's escrow account does not have sufficient funds to cover an upcoming expense and the servicer advances the funds necessary to pay an expense to a third party, the amount of the servicer advance that is paid to a third party may be capitalized.

In the event the initial escrow analysis identifies a shortage - a deficiency in the escrow deposits needed to pay all future tax and insurance payments - the servicer must collect such funds from the borrower over a 60-month period unless the borrower decides to pay the shortage upfront. Any escrow shortage that is identified at the time of HAMP eligibility may not be capitalized. Servicers are not required to fund any existing escrow shortage. A servicer may encourage a borrower to contribute to the escrow shortage upfront; however, that is not an eligibility requirement of the HAMP.

When a servicer spreads the escrow shortage identified during the HAMP eligibility process over a 60-month period, any subsequent shortage that may be identified in the next annual analysis cycle should be spread out over the remaining term of the initial 60-month period. For example, if the next analysis cycle is performed 12 months after the initial escrow shortage is identified,

any additional shortage identified in that analysis cycle should be spread over the remaining 48-month period.

## **Compliance with Applicable Laws**

Fannie Mae reminds each servicer (and any subservicer it uses) to be aware of, and in full compliance with, all federal, state, and local laws (including statutes, regulations, ordinances, administrative rules and orders that have the effect of law, and judicial rulings and opinions), including, but not limited to, the following laws that apply to any of its practices related to the HAMP:

- Section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive acts or practices.
- The Equal Credit Opportunity Act and the Fair Housing Act, which prohibit discrimination on a prohibited basis in connection with mortgage transactions. Loan modification programs are subject to the fair lending laws, and servicers and lenders should ensure that they do not treat a borrower less favorably than other borrowers on grounds such as race, religion, national origin, sex, marital or familial status, age, handicap, or receipt of public assistance income in connection with any loan modification. These laws also prohibit redlining.
- The Real Estate Settlement Procedures Act, which imposes certain disclosure requirements and restrictions relating to transfers of the servicing of certain loans and escrow accounts.
- The Fair Debt Collection Practices Act, which restricts certain abusive debt collection practices by collectors of debts, other than the creditor, owed or due to another.

## **Modification Process**

### **Borrower Solicitation**

Servicers may only solicit a borrower for the HAMP if the borrower is currently two or more payments (31 or more days) past due. Once a borrower is two or more payments past due:

- A servicer may make a firm offer solicitation to borrowers for whom the servicer has recent financial information (provided within 90 days of the date the servicer is determining HAMP eligibility) indicating that the borrower may qualify for the HAMP. The offer must be made utilizing the HAMP Trial Period Plan Cover Letter, enclosing the Trial Period Plan, and a Hardship Affidavit.
- If a servicer does not have a delinquent borrower's recent financial information, the servicer may send a letter instructing an eligible borrower to call the servicer to discuss the details of their individual circumstances. Fannie Mae has prepared a sample Solicitation Letter (which includes Fannie Mae's logo) for the servicer's use.

A servicer may also receive calls from current or delinquent borrowers inquiring about the availability of the HAMP. A servicer should work with such borrowers to obtain the borrower's financial and hardship information and to determine if the HAMP is appropriate. The servicer

may not require a borrower to make an up-front cash contribution (other than the first trial period payment) for a borrower to be considered for the HAMP.

**As outlined in *Servicing Guide* Part VII, Section 103: Letters, a servicer must send a loss mitigation solicitation letter to the borrower by no later than the 50<sup>th</sup> day of delinquency. For loans that become delinquent on or after June 1, 2009, a servicer must also send the Solicitation Letter for HAMP no later than the 50<sup>th</sup> day of delinquency. Should a servicer not receive a response from the borrower within 30 days of sending the Solicitation Letter for HAMP, the servicer should pursue other remedies including foreclosure. A servicer should not delay sending a breach letter, when required, while awaiting a response from the borrower. As an alternative to sending a separate solicitation letter for HAMP, a servicer may revise its loss mitigation solicitation letter to include the details of the HAMP as outlined in the sample Solicitation Letter. If a servicer revises its loss mitigation solicitation letters to include HAMP or decides to develop its own HAMP solicitation letter, it must be approved by Fannie Mae prior to its use.**

When discussing the HAMP, the servicer should provide the borrower with information designed to help the borrower understand the modification terms that are being offered and the modification process. Such communication should help minimize potential borrower confusion, foster good customer relations, and improve legal compliance and reduce other risks in connection with the transaction. A servicer also must provide a borrower with clear and understandable written information about the material terms, costs, and risks of the modified mortgage loan in a timely manner to enable borrowers to make informed decisions. The servicer should inform the borrower during discussions that a modification under the HAMP will cancel any assumption, variable or step-rate feature, or enhanced payment options (e.g., Timely Payment Rewards<sup>®</sup>) in the borrower's existing loan, at the time the loan is modified.

Fannie Mae expects servicers to have adequate staffing, resources and facilities for receiving and processing the HAMP documents and any requested information that is submitted by borrowers. Servicers must have procedures and systems in place to be able to respond to inquiries and complaints about the HAMP. Servicers should ensure that such inquiries and complaints are provided fair consideration, and timely and appropriate responses and resolution.

## **Document Retention**

**Servicers must retain all documents and information received during the process of determining borrower eligibility, including borrower income verification, total monthly mortgage payment and total monthly gross debt payment calculations, NPV calculations (NPV model and version used, assumptions, inputs and outputs), evidence of application of each step of the modification waterfall, escrow analysis, escrow advances, and escrow set-up. The servicers must retain all documents and information related to the monthly payments during and after the trial period as well as the incentive payment calculations and such other required documents.**

**Servicers must retain detailed records of borrower solicitations or borrower-initiated inquiries regarding the HAMP, the outcome of the evaluation for modification under the**

**HAMP and specific justification with supporting details if the request for modification under the HAMP was denied. Records must also be retained to document the reason(s) that a Trial Period Plan is not finalized. If a borrower under an HAMP modification loses good standing, the servicer must retain documentation of its consideration of the borrower for other foreclosure prevention alternatives. Servicers must retain HAMP documentation as prescribed in *Servicing Guide*, Part I, Section 405: Record Retention.**

## **Temporary Suspension of Foreclosure Proceedings**

### ***Servicing Guide*, Part VIII, Section 105.01: Temporary Suspension of Proceedings**

To ensure that a borrower currently at risk of foreclosure has the opportunity to apply for the HAMP, servicers should not proceed with a foreclosure sale until the borrower has been evaluated for the program and, if eligible, an offer to participate in the HAMP has been made. **Servicers must use reasonable efforts to contact borrowers facing foreclosure to determine their eligibility for the HAMP, including in-person contacts at the servicer's discretion.** Servicers must not conduct foreclosure sales on mortgage loans previously referred to foreclosure **or refer new mortgage loans to foreclosure** during the 30-day period that the borrower has to submit documents evidencing an intent to accept the Trial Period Plan offer. Except as noted herein, any foreclosure sale will be suspended for the duration of the Trial Period Plan, including any period of time between the borrower's execution of the Trial Period Plan and the Trial Period Plan effective date. However, borrowers in Georgia, Hawaii, Missouri, and Virginia will be considered to have failed the trial period if they are not current under the terms of the Trial Period Plan as of the date that the foreclosure sale is scheduled. **Accordingly, servicers of HAMP loans secured by properties in these states must proceed with the foreclosure sale if the borrower has not made the trial period payments required to be made through the end of the month preceding the month in which the foreclosure sale is scheduled to occur.**

## **Mortgage Insurer Approval**

Fannie Mae has obtained blanket delegations of authority from most mortgage insurers so that servicers can more efficiently process HAMP modifications without having to obtain mortgage insurer approval on individual mortgage loans. A list of the mortgage insurers from which Fannie Mae has received a delegated authority agreement can be found on [eFannieMae.com](http://eFannieMae.com). If applicable, servicers must continue to obtain mortgage insurer approval on a case-by-case basis from any mortgage insurer for which we have not yet received a delegated authority agreement. Servicers should consult their mortgage insurance providers for specific processes related to the reporting of modified terms, payment of premiums, payment of claims, and other operational matters in connection with mortgage loans modified under the HAMP.

## **Executing the HAMP Documents**

Servicers must use a two-step process for HAMP modifications. Step 1 involves providing a document outlining the terms of the forbearance (the Trial Period Plan), and step 2 involves

providing the borrower with a separate document (the Agreement) outlining the terms of the modification.

**Step 1:** The servicer should instruct the borrower to return the signed Trial Period Plan, together with a signed Hardship Affidavit and income verification documents (if not previously obtained) and the first trial period payment (when not using automated drafting arrangements), to the servicer within **30** calendar days after the Trial Period Plan is sent by the servicer. The servicer is encouraged to contact the borrower before the expiration of the **30-day period** if the borrower has not yet responded to encourage submission of the material. **If the borrower's submission is incomplete, servicers should work with borrowers to complete the Trial Period Plan submission. The servicer may, in its discretion, consider the offer of a Trial Period Plan to have expired at the end of up to 60 days if the borrower has not submitted both an executed Trial Period Plan and complete documentation as required under the Trial Period Plan.**

Upon receipt of the Trial Period Plan from the borrower, the servicer must confirm that the borrower meets the underwriting and eligibility criteria. Once the servicer makes this determination and has received good funds for the first month's trial payment, the servicer should sign and immediately return an executed copy of the Trial Period Plan to the borrower. Payments made by the borrower under the terms of the Trial Period Plan will count toward successful completion irrespective of the date of the executed copy of the Trial Period Plan.

If the servicer determines that the borrower does not meet the underwriting and eligibility standards of the HAMP after the borrower has submitted a signed Trial Period Plan to the servicer, the servicer should promptly communicate that determination to the borrower in writing and consider the borrower for another foreclosure prevention alternative using the new workout hierarchy (refer to "New Workout Hierarchy" section for additional information).

**As an alternative, a servicer may require a borrower to submit the required documentation to verify the borrower's eligibility and income prior to sending the borrower a firm offer solicitation. If this alternative is utilized, the servicer should use the HAMP Documentation Request letter and Hardship Affidavit to obtain the required documentation from the borrower. The servicer should instruct the borrower to return the required documentation within 30 days from the date the HAMP Documentation Request letter and Hardship Affidavit is sent by the servicer.**

**Step 2:** Servicers must calculate the terms of the modification using verified income, taking into consideration amounts to be capitalized during the trial period. Servicers are encouraged to send the Agreement for execution by the borrower after receipt of the second payment under the trial period (or third payment for mortgage loans facing imminent default, which require a four-month trial period).

Servicers are reminded that modification agreements must be signed by an authorized representative of the servicer, must reflect the actual date of signature by the servicer's representative and signature must not occur until after the mortgage loan has been removed from the MBS pool, and either reclassified as a Fannie Mae portfolio mortgage or repurchased by the servicer, if applicable.

## Acceptable Revisions to HAMP Documents

Servicers are strongly encouraged to use the HAMP documents provided on [eFannieMae.com](http://eFannieMae.com). Should a servicer decide to revise the HAMP documents or draft its own HAMP documents, it must obtain prior written approval from Fannie Mae with the exception of the following circumstances:

- The servicer must revise the HAMP documents as necessary to comply with Federal, State and local law. For example, in the event that the HAMP results in a principal forbearance, servicers are obligated to modify the uniform instrument to comply with laws and regulations governing balloon disclosures.
- The servicer may include, as necessary, conditional language in HAMP offers and modification agreements that condition the implementation of any modification on the servicer's receipt of an acceptable title endorsement, or similar title insurance product, or subordination agreements from other existing lien holders, as necessary, to ensure that the modified mortgage loan retains its first lien position and is fully enforceable as required by the *Servicing Guide*.
- If the borrower previously received a Chapter 7 bankruptcy discharge but did not reaffirm the mortgage debt under applicable law, the following language must be inserted in Section 1 of the Trial Period Plan and Section 1 of the Agreement: "I was discharged in a Chapter 7 bankruptcy proceeding subsequent to the execution of the Loan Documents. Based on this representation, Lender agrees that I will not have personal liability on the debt pursuant to this Agreement."
- **The servicer may include language in the HAMP Cover Letters providing instructions for borrowers who elect to use an automated payment method to make trial period payments.**
- **All servicers of Fannie Mae mortgage loans must insert the following at the end of the Home Affordable Modification Trial Period Plan as section 4.H. before the signature block:**

**Notwithstanding anything herein to the contrary, if my final two Trial Period Payments are received by Servicer after the close of business on the 15th calendar day of the last month of the Trial Period but before the end of the Trial Period, I agree that the Trial Period shall be extended by one calendar month (the "Additional Trial Period"). I agree to abide by all terms and provisions of this Trial Period Plan during the Additional Trial Period. In addition, I agree to make a Trial Period Payment in the amount of \$ \_\_\_\_\_ [the same amount of the other Trial Period Payments] no more than 30 days after the last due date listed in the chart in Section 2 above.**

Unless a borrower or co-borrower is deceased **or a borrower and co-borrower are divorced**, all parties who signed the original note and security instrument, or their duly authorized representative(s), must execute the HAMP documents. **If a borrower and a co-borrower are divorced and the property has been transferred to one spouse in the divorce decree, the spouse who no longer has an interest in the property is not required to execute the HAMP documents. Fannie Mae's agreement to permit only one divorced spouse to execute the HAMP Documents is without prejudice to its rights against the non-executing divorced**

**spouse, all of which are expressly retained. Servicers may evaluate requests on a case-by-case basis when the borrower is unable to sign due to circumstances such as mental incapacity, military deployment, etc. An existing borrower may elect to add a new co-borrower to the mortgage loan.**

### **Use of Electronic Records**

Electronic records for HAMP are acceptable as long as the electronic record complies with all requirements of the *Selling and Servicing Guides* and applicable law.

### **Assignment to MERS**

If the original mortgage loan was registered with Mortgage Electronic Registration Systems, Inc. (MERS) and MERS was named as the original mortgagee of record, (as nominee for the lender) the servicer **MUST** make the following changes to the Agreement:

(a) Insert a new definition under the “Property Address” definition on page 1, which reads as follows:

“MERS” is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for lender and lender’s successors and assigns. MERS is the mortgagee under the Mortgage. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, (888) 679-MERS.

(b) Add as section 4.I:

That MERS holds only legal title to the interests granted by the borrower in the mortgage, but, if necessary to comply with law or custom, MERS (as nominee for lender and lender’s successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of lender including, but not limited to, releasing and canceling the mortgage loan.

(c) MERS must be added to the signature lines at the end of the Agreement, as follows:

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Mortgage Electronic Registration  
Systems, Inc. – Nominee for Lender

The servicer may execute the Agreement on behalf of MERS and, if applicable, submit it for recordation.

## **Trial Payment Period**

Servicers may use recent verbal financial information to prepare and offer a Trial Period Plan. Servicers are not required to verify financial information prior to the effective date of the trial period. The servicer must service the mortgage loan during the trial period in the same manner as it would service a loan in forbearance. During the trial period for MBS mortgage loans, the mortgage loan will remain in the related MBS pool and the servicer must continue to service the mortgage loan under the servicing guidelines applicable to MBS mortgage loans. (Refer to “Reclassification or Removal of MBS Loans Prior to Effective Date of Modification” section below.)

The effective date of the trial period will be set forth in the Trial Period Plan. In most cases, the effective date is the first day of the month following the servicer’s mailing of the offer for the Trial Period Plan. The trial payment period is three months long for mortgage loans where the payment is already in default and four months long for mortgage loans where the servicer has determined that a borrower’s payment default is imminent but no default has occurred. The borrower must be current under the terms of the Trial Period Plan at the end of the trial period in order to receive a permanent modification.

**The borrower is considered to have failed the trial period and thus, not eligible for an HAMP modification, if all the trial period payments are not received by the end of the trial payment period. In the event that the next to last and last trial period payments are received after the 15<sup>th</sup> calendar day of the final month of the trial period but before the end of the trial period, the servicer must extend the trial payment period by one month. Refer to the “Reclassification or Removal of MBS Loans Prior to Effective Date of Modification” section for further details.**

**If the verified income evidenced by the borrower’s documentation exceeds the initial income information used by the servicer to place the borrower in the trial period by more than 25 percent, the borrower must be reevaluated based on the program eligibility and underwriting requirements. If this reevaluation determines that the borrower is still eligible, new documents must be prepared and the borrower must restart the trial period.**

**If the verified income evidenced by the borrower’s documentation is less than the initial income information used by the servicer to place the borrower in the trial period, or if the verified income exceeds the initial income information by 25 percent or less, and the borrower is still eligible as determined by a reevaluation of HAMP eligibility, then the trial period will not restart and the trial period payments will not change; provided, that verified income will be used to calculate the monthly mortgage payment under the Agreement. However, if the servicer determines the borrower is not eligible for the HAMP based on verified income, the servicer must notify the borrower of that determination and that any trial period payments made by the borrower will be applied to the mortgage loan in accordance with the borrower’s current loan documents.**

For a borrower facing imminent default, the borrower’s payment during the trial period must not be equal to or greater than the contractual mortgage payment in effect prior to the trial period.

If the borrower complies with the terms and conditions of the Trial Period Plan, the loan modification will become effective on the first day of the month following the trial period as specified in the Trial Period Plan and the Agreement. **However, because the monthly payment under the Agreement will be based on verified income documentation, the monthly payment due under the Agreement may differ from the payment amount due under the Trial Period Plan.**

If a servicer has information that the borrower does not meet all of the eligibility criteria for the HAMP (e.g., because the borrower has moved out of the house) the servicer should explore other foreclosure prevention alternatives prior to resuming or initiating foreclosure.

### **Use of Suspense Accounts and Application of Payments**

In accordance with the *Servicing Guide*, Part III, Section 102.06: Pending Modifications, Announcement 07-03R2, and, if permitted by the applicable loan documents, servicers may accept and hold as "unapplied funds" (held in a T&I custodial account) amounts received which do not constitute a full monthly, contractual principal, interest, tax and insurance (PITI) payment. However, when the total of the reduced payments held as "unapplied funds" is equal to a full PITI payment, the servicer is required to apply all full payments to the mortgage loan.

Any unapplied funds remaining at the end of the trial payment period which do not constitute a full monthly, contractual principal, interest, tax and insurance payment should be applied to reduce any amounts that would otherwise be capitalized onto the principal balance.

### **Reclassification or Removal of MBS Mortgage Loans Prior to Effective Date of Modification**

Under the Agreement, if the borrower successfully completes the trial period, the modification of the loan will become effective on the first day of the calendar month immediately following the end of the trial period.

### **Reclassification of MBS Mortgage Loans – Payment Default Imminent**

For an MBS mortgage loan where the servicer has determined that a borrower's payment default is imminent, the mortgage loan must be removed from the MBS pool **before** the effective date of the loan modification. Accordingly, to facilitate removals of mortgage loans from MBS pools, a servicer must use HSSN to request that a loan be reclassified and purchased out of the MBS pool. Reclassifications are subject to the following:

- As long as the borrower has made the third payment and the servicer has accepted the payment and notified Fannie Mae of receipt of the payment before the servicer's reclassification date in the fourth month of the trial period, the servicer should request that the loan be reclassified during the fourth month of the trial period.
- If, prior to the close of the servicer's reclassification date in the fourth month, (i) the borrower has not made the third payment, or (ii) the servicer has not applied the third payment, notified Fannie Mae that the payment has been made and requested reclassification,

then it will not be possible to reclassify the loan from the MBS pool prior to the modification effective date. **In the event that the third and fourth trial period payments are received after the 15<sup>th</sup> calendar day (i.e., servicer's reclassification date) of the fourth month of the trial period but before the end of the trial period, the servicer must extend the trial period by one month.**

- **If the required trial period payments are not made by the end of the trial period, the preconditions to make the modification effective will not have been satisfied and Fannie Mae will cancel the case. The servicer must ensure that the loan modification is not implemented.**

### **Reclassification of MBS Mortgage Loans – Payment in Default**

For an MBS mortgage loan that already has a payment in default at the time the HAMP is negotiated, the mortgage loan must be removed from the MBS pool **before** the effective date of the loan modification. Accordingly, to facilitate removals of mortgage loans from MBS pools, a servicer must use HSSN to request that a loan be reclassified and purchased out of the MBS pool. Reclassifications are subject to the following:

- As long as the borrower has made the second payment and the servicer has accepted the payment and notified Fannie Mae of receipt of the payment before the servicer's reclassification date in the third month of the trial period, the servicer should request that the loan be reclassified during the third month of the trial period.
- If, prior to the close of the servicer's reclassification date in the third month, (i) the borrower has not made the second payment, or (ii) the servicer has not applied the second payment, notified Fannie Mae that the payment has been made and requested reclassification, then it will not be possible to reclassify the loan from the MBS pool prior to the modification effective date. **In the event that the second and third trial period payments are received after the 15<sup>th</sup> calendar day (i.e., servicer's reclassification date) of the third month of the trial period but before the end of the trial period, the servicer must extend the trial period by one month.**
- **If the required trial period payments are not made by the end of the trial period, the preconditions to make the modification effective will not have been satisfied and Fannie Mae will cancel the case. The servicer must ensure that the loan modification is not implemented.**

Thus, during the trial period it is very important that servicers timely report to Fannie Mae the receipt of funds from the borrower and promptly request reclassification of the mortgage loan.

For an MBS loan to be eligible for reclassification from an MBS pool for the purpose of modification, the mortgage loan must have been in a continuous state of delinquency for at least four consecutive monthly payments (or at least eight consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency. The servicer must represent and warrant that, after application of all trial payments made by the borrower, once the sum of payments totals a full payment, the borrower has been in a delinquent status (i.e., not current in monthly mortgage payments) on each of the last four monthly payment due dates and continues to be delinquent. After a mortgage loan is reclassified, the servicer will follow the existing

procedure and update the Officer Signature Date in HSSN to close the modification. Servicers are reminded that a current MBS mortgage loan is ineligible for reclassification for the purpose of modifying the mortgage loan.

## **Removal of Regular Servicing Option MBS Mortgage Loans**

Servicers of regular servicing option MBS mortgage loans are encouraged to offer the HAMP for these mortgage loans. If a servicer decides to use the HAMP for such mortgages, the servicer will be expected to follow the Treasury's Home Affordable Modification Program, sign the servicer participation agreement, obtain any third-party approvals, and comply with the requirements of this Announcement governing reporting and removal of these mortgage loans from MBS pools, if applicable. Fannie Mae is not responsible for any losses or expenses the servicer incurs and will not pay borrower or servicer incentive fees for these mortgage loans which are not considered Fannie Mae HAMP mortgage loans.

The servicer of a mortgage loan that is part of a regular servicing option MBS pool or part of a shared-risk special servicing option MBS pool for which the servicer's shared risk liability has not expired must not modify the mortgage loan as long as it remains in the MBS pool. **The servicer must purchase the mortgage loan from the MBS pool upon completion of the trial period provided the mortgage loan has been in a continuous state of delinquency for at least four consecutive monthly payments (or at least eight consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency.** Regular servicing option MBS pool mortgage loans and such shared-risk special servicing option MBS pool mortgage loans that have been purchased from an MBS pool for purposes of modification are not eligible for redelivery to Fannie Mae. Performing MBS mortgage loans (i.e., those that do not meet the delinquency criteria described above) are ineligible for repurchase for the purpose of modifying the mortgage loan.

## **Recording the Modification**

For all mortgage loans that are modified pursuant to the HAMP, the servicer must ensure that the modified mortgage loan retains its first lien position and is fully enforceable. The Agreement must be executed by the borrower(s) and, in the following circumstances, must be in recordable form:

- if State or local law requires a modification agreement be recorded to be enforceable;
- if the property is located in the State of New York or Cuyahoga County, Ohio;
- if the amount capitalized is greater than \$20,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under our mortgage modification alternatives);
- if the remaining term on the mortgage loan is less than or equal to ten years and the servicer is extending the term of the mortgage loan more than ten years beyond the original maturity date; or
- if the servicer's practice for modifying mortgage loans in the servicer's portfolio is to create modification agreements in recordable form.

In addition, to retain the first lien position, servicers must:

- ensure all real estate taxes and assessments that could become a first lien are current especially those for manufactured homes taxed as personal property, personal property taxes, condominium/HOA fees, utility assessments (such as water bills), ground rent and other assessments;
- obtain a title endorsement or similar title insurance product issued by a title insurance company if the amount capitalized is greater than \$20,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under our mortgage modification alternatives);
- obtain subordination agreements from any junior lien holders, if (1) the amount capitalized is greater than \$20,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under our modification alternatives) or (2) the remaining term on the mortgage loan is less than or equal to ten years and the term of the mortgage loan is being extended more than ten years beyond the original maturity date; and
- record the executed Agreement if (1) State or local law requires the modification agreement be recorded to be enforceable; (2) the property is located in the State of New York or Cuyahoga County, Ohio; (3) the amount capitalized is greater than \$20,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under our modification alternatives); or (4) the remaining term on the mortgage loan is less than or equal to ten years and you are extending the term of the mortgage loan more than ten years beyond the original maturity date.

## Monthly Statements

For modifications that include principal forbearance, servicers are encouraged to include the amount of the gross UPB on the borrower's monthly payment statement. **In addition, the borrower should receive information on a monthly basis regarding the accrual of "pay-for performance" principal balance reduction payments.**

## Redefault and Loss of Good Standing

If, following a successful trial period, a borrower defaults on a loan modification executed under the HAMP (three monthly payments are due and unpaid on the last day of the third month), the loan is no longer considered to be in "good standing." Once lost, good standing cannot be restored even if the borrower subsequently cures the default. A loan that is not in good standing is not eligible to receive borrower or servicer incentives and reimbursements and these payments will no longer accrue for that mortgage loan. Further, the mortgage loan is not eligible for another HAMP modification.

In the event a borrower defaults, the servicer must work with the borrower to cure the modified loan, or if that is not feasible, evaluate the borrower for any other available foreclosure prevention alternatives prior to commencing foreclosure proceedings.

## **Servicer Delegation, Duties and Responsibilities**

All Fannie Mae approved servicers are eligible to participate in the HAMP without obtaining prior approval from Fannie Mae.

In performing the duties incident to the servicing of mortgage loans modified under the HAMP, a servicer must:

- Collect and record the details of all executed mortgage modifications, including, but not limited to: the original terms of the modified mortgage loan; the modified terms of the modified mortgage loan; data supporting the modification decision; updates to payoff information and the last payment date; additional information and data as may be requested by Fannie Mae or the Compliance Agent from time to time. All such data must be compiled and reported to Fannie Mae and the Compliance Agent in the form and manner set forth in this Announcement.
- Retain all data, books, reports, documents, audit logs and records, including electronic records, related to the HAMP. In addition, the servicer shall maintain a copy of all computer systems and application software necessary to review and analyze any electronic records. **Unless otherwise directed by Fannie Mae or the Compliance Agent, the servicer shall retain these records for mortgage loans owned or securitized by Fannie Mae in accordance with the *Servicing Guide* Part I, Section 405: Record Retention, or for such longer period as may be required pursuant to applicable law.** The Compliance Agent may also notify the servicer from time to time of any additional records retention requirements resulting from litigation, or other proceedings in which the Treasury or any agents of the Treasury may have an interest, and the servicer agrees to comply with such requirements.
- Construe the terms of this Announcement and any related instructions from the Treasury or Fannie Mae in a reasonable manner to serve the purposes and interests of the United States.
- Use any nonpublic information or assets of the United States or Fannie Mae received or developed in connection with the HAMP solely for the purposes of fulfilling its obligations hereunder.
- Comply with all lawful instructions or directions received from the Treasury and Fannie Mae.
- Develop, enforce, and review for effectiveness at least annually, an internal control program designed to ensure effectiveness of duties in connection with the HAMP and compliance with this Announcement, to monitor and detect loan modification fraud and to monitor compliance with applicable consumer protection and fair lending laws. The internal control program must include documentation of the control objectives for HAMP activities, the associated control techniques, and mechanisms for testing and validating the controls.
- Provide Fannie Mae and the Compliance Agent with access to all internal control reviews and reports that relate to duties performed under the HAMP by the servicer and/or its independent auditing firm.
- **Supervise and manage any contractor that assists in the performance of services in connection with the HAMP. A servicer shall remove and replace any contractor that fails to perform and ensure that all of its contractors comply with the terms and provisions of the *Servicing Guide*. A servicer shall be responsible for the acts or omissions of its contractors as if the acts or omissions were those of the servicer.**

The Treasury will designate another party to fulfill the role of Compliance Agent in connection with the HAMP. The Compliance Agent, its independent auditor and other parties designated by the Treasury shall have the right during normal business hours to conduct unannounced, informal onsite visits and to conduct formal onsite and offsite physical, personnel and information technology testing, security reviews, and audits of the servicer and to examine all books, records and data related to the duties and compensation received in connection with the HAMP with 30 days prior written notice. The servicer shall take corrective actions associated with reporting and audits as directed by Fannie Mae or the Compliance Agent.

## **Reporting Requirements**

### **Reporting to Fannie Mae**

#### **Reporting Through HSSN**

**For all Fannie Mae portfolio mortgage loans and MBS pool mortgage loans guaranteed by Fannie Mae (including lender recourse loans), a servicer must enter loan level HAMP data by submitting a delegated case into HSSN when a servicer has received a successfully executed Trial Period Plan. Additionally, the servicer must record in HSSN receipt of the trial period payments due under the plan. The servicer must use HSSN to request reclassification for MBS mortgage loans as outlined in the Reclassification or Removal of MBS Mortgage Loans Prior to Effective Date of Modification section of this Announcement when appropriate. The servicer must represent and warrant that, after application of all trial payments made by the borrower, once the sum of payments total a full payment, the borrower has been in a delinquent status (i.e., not current in contractual payments) on each of the last four monthly payment due dates and continues to be delinquent. After a mortgage loan is reclassified, if applicable, the servicer will follow the existing procedure and update the Officer Signature Date in HSSN to close the modification.**

#### **Monthly Investor Reporting and Remitting**

Existing monthly Loan Activity Record (LAR) reporting requirements for Fannie Mae servicers will not change. Servicers must continue to report the standard LAR format for loan payment by the 3<sup>rd</sup> business day and for payoff activity by the 2<sup>nd</sup> business day of each month for the prior month's activity (e.g., payoff reporting to be received by April 2<sup>nd</sup> will contain March activity).

### ***Servicing Guide, Part VII, Section 502.03: Reporting to Fannie Mae; and Part X, Chapter 3: Special Reporting Requirements***

If the modification includes principal forbearance, the servicer should report the net UPB (full UPB minus the forbearance amount) in the "Actual UPB" field on both LARs for the reporting month that the modification becomes effective. The initial reduction in UPB caused by the principal forbearance should not be reported to Fannie Mae as a principal curtailment. The interest reported on the LAR must be based on the net UPB.

If the modification includes principal forbearance resulting in a balloon payment due upon borrower's sale of the property or payoff, or maturity of the mortgage loan, interest must never be computed on the principal forbearance amount, including at the time of liquidation. When reporting a payoff or repurchase of the mortgage loan, the principal reported on the LAR must include the principal forbearance amount. Attempting to report a payoff or repurchase without including the principal forbearance amount will generate an exception upon submission of the LAR.

If a principal curtailment is received on a loan that has a principal forbearance, servicers are instructed to apply the principal curtailment to the interest bearing UPB. If, however, the principal curtailment amount is greater than or equal to the interest-bearing UPB, then the curtailment should be applied to the principal forbearance portion. If the curtailment satisfies the principal forbearance portion, any remaining funds should then be applied to the interest bearing UPB.

## **Delinquency Status Reporting**

### ***Servicing Guide, Part VII, Chapter 6, Exhibit 1: Delinquency Status Codes***

The servicer must report a delinquency status code 09 - Forbearance - during the trial period. The servicer must then report a delinquency status code 28 – Mortgage Modification – to indicate that the delinquency status has changed once the borrower has successfully completed the trial period and the modification becomes effective, if applicable.

## **Reporting to Treasury**

**In addition to reporting to Fannie Mae, each servicer must report periodic HAMP loan activity to Treasury through the servicer web portal accessible through HMPadmin.com. Data should be reported by a servicer at the start of the modification trial period and during the modification trial period, for loan set up of the approved modification, and monthly after the modification is set up. Servicers will be required to submit three separate data files. Detailed guidelines for submitting these data files and a list of data elements for each report are available upon request by sending an email to [servicing\\_solutions@fanniemae.com](mailto:servicing_solutions@fanniemae.com). This information will also be accessible on the servicer web portal in the near future.**

**A servicer will receive a username and password for the servicer web portal upon submission of the HAMP Registration form. All servicers will be required to provide the HAMP Registration form with information such as contact information and banking instructions for deposits of compensation payments. The HAMP Registration form is a one-time submission; however, after the initial form is submitted, a servicer may submit a new form to update existing information at any time.**

## **Mortgage Insurance**

### **Reporting to Mortgage Insurers**

Servicers must maintain their mortgage insurance processes and comply with all reporting required by the mortgage insurer for mortgage loans modified under the HAMP. Servicers should consult with the mortgage insurer for specific processes related to the reporting of modified terms, payment of premiums, payment of claims, and other operational matters in connection with mortgage loans modified under the HAMP. Servicers are required to report successful HAMP modifications and the terms of those modifications to the appropriate mortgage insurers, if applicable, within 30 days following the end of the trial period and in accordance with procedures that currently exist or may be agreed to between servicers and the mortgage insurers.

### **Maintenance of Mortgage Insurance**

Servicers must include the mortgage insurance premium in the borrower's modified payment, and must ensure that any existing mortgage insurance is maintained. Among other things, the servicer must ensure that the mortgage insurance premium is paid. In addition, servicers must adapt their systems to ensure proper reporting of modified loan terms so as not to impair coverage for any existing mortgage insurance. For example, in the event that the modification includes principal forbearance, servicers must continue to pay the correct MI premiums based on the gross UPB, including any principal forbearance amount, must include the gross UPB in their delinquency reporting to the mortgage insurer, and must ensure any principal forbearance does not erroneously trigger automatic mortgage insurance cancellation or termination.

### **Transfers of Servicing**

When a transfer of servicing includes mortgage loans modified under the HAMP, we require the transferor servicer to provide special notification to the transferee servicer. Specifically, the transferor servicer must advise the transferee servicer that mortgage loans modified under the HAMP are part of the portfolio being transferred and must confirm that the transferee servicer is not only aware of the special requirements for these mortgage loans, but also agrees to assume the additional responsibilities associated with servicing these mortgage loans.

The transferee servicer must assume all of the responsibilities and duties of the HAMP. However, the transferee servicer's assumption of these responsibilities, duties, and warranties will in no way release the transferor servicer from its contractual obligations related to the transferred mortgage loans. The two servicers will be jointly and severally liable to us for all warranties and for repurchase, all special obligations under agreements previously made by the transferor servicer or any previous servicer or servicer (including actions that arose prior to the transfer), and all reporting, compliance and audit oversight related duties regarding the transferred mortgage loans .

## **Credit Bureau Reporting**

In accordance with the *Servicing Guide*, Part VII, Section 107: Notifying Credit Repositories, the servicer should continue to report a “full-file” status report to the four major credit repositories for each loan under the HAMP in accordance with the Fair Credit Reporting Act and credit bureau requirements as provided by the Consumer Data Industry Association (the “CDIA”) on the basis of the following:

- For borrowers who are current when they enter the trial period, the servicer should report the borrower current but on a modified payment if the borrower makes timely payments by the 30<sup>th</sup> day of each trial period month at the modified amount during the trial period, as well as report the modification when completed.
- For borrowers who are delinquent when they enter the trial period, the servicer should continue to report in such a manner that accurately reflects the borrower’s delinquency and workout status following usual and customary reporting standards, as well as report the modification when completed.

**More detailed information on these reporting standards will be published by the CDIA.**

"Full-file" reporting means that the servicer must describe the exact status of each mortgage loan it is servicing as of the last business day of each month.

## **Fees and Compensation**

### **Servicing Fees**

During the trial period, servicing fees will continue to be earned by the servicer to the extent that the borrower payments equal a contractual full payment. When the HAMP modification becomes effective, the servicer will receive servicing fees based on our existing fee schedule for modified mortgage loans in accordance with the *Servicing Guide*, Part VII, Section 502.02: Modifying Conventional Mortgages.

### **Late Fees**

All late charges, penalties, stop payment fees or similar fees must be waived upon successful completion of the trial period.

### **Administrative Costs**

Servicers may not charge the borrower to cover the administrative processing costs incurred in connection with a HAMP. The servicer must pay any actual out-of-pocket expenses such as any required notary fees, recordation fees, title costs, property valuation fees, credit report fees or other allowable and documented expenses. Fannie Mae will reimburse the servicer for allowable out-of-pocket expenses. Servicers will not be reimbursed for the cost of the credit report(s).

## Incentive Compensation

No incentives of any kind will be paid if (i) the servicer has not provided an HAMP Registration form or HAMP loan set-up data prior to the effective date of the modification, or (ii) the borrower's monthly payment ratio starts below 31 percent prior to the implementation of the HAMP. The incentive compensation will only be paid for HAMP modifications that are based on the borrower's verified income. Each servicer must promptly apply or remit, as applicable, all borrower and investor compensation it receives with respect to any modified mortgage loan.

With respect to payment of any incentive that is predicated on at least a six percent reduction in the borrower's monthly mortgage payment, the reduction will be calculated by comparing the monthly mortgage payment used to determine eligibility (adjusted as applicable to include property taxes, hazard insurance, flood insurance, condominium association fees and homeowner's association fees) and the borrower's payment under HAMP.

Timing and mechanics of the borrower and servicer incentive compensation plans will be provided in a subsequent Announcement.

### Servicer Incentive Compensation

A servicer will receive compensation of \$1,000 for each completed modification under the HAMP. In addition, if a borrower was current under the original mortgage loan, a servicer will receive an additional compensation amount of \$500. All such servicer incentive compensation shall be earned and payable once the borrower successfully completes the trial payment period.

If a borrower's monthly mortgage payment (principal, interest, taxes and all related property insurance **and homeowner's or condominium association fees**, but excluding mortgage insurance) is reduced through the HAMP by six percent or more, a servicer will also receive an annual "pay for success" fee equal to the lesser of: (i) \$1,000 (\$83.33 per month), or (ii) one-half of the reduction in the borrower's annualized monthly payment, for up to three years as long as the loan is a performing loan modification. The "pay for success" fee will be payable annually for each of the first three years after the anniversary of the month in which a Trial Period Plan is executed. If and when the loan ceases to be in good standing, the servicer will cease to be eligible for any further incentive payment after that time, even if the borrower subsequently cures his or her delinquency.

### Borrower's Incentive Compensation

To provide an additional incentive for borrowers to keep their modified loan current, borrowers whose monthly mortgage payment (principal, interest, taxes and all related property insurance **and homeowner's or condominium association fees**, but excluding mortgage insurance) is reduced through the HAMP by six percent or more and who make timely monthly payments will earn an annual "pay for performance" principal balance reduction payment equal to the lesser of: (i) \$1,000 (\$83.33 per month), or (ii) one-half of the reduction in the borrower's annualized

monthly payment for each month a timely payment is made. A borrower can earn the right to receive a “pay for performance” principal balance reduction payment for payments made during the first five years following execution of the Agreement provided the loan continues to be in good standing as of the date the payment is made. The “pay for performance” principal balance reduction payment will accrue monthly and be applied annually for each of the five years in which this incentive payment accrues, prior to the first payment due date after the anniversary of the month in which the Trial Period Plan is executed. This payment will be paid to the servicer to be **applied first towards reducing the interest bearing UPB and then towards any principal forbearance amount (if applicable)** on the mortgage loan. Any applicable prepayment penalties on partial principal prepayments made by Fannie Mae must be waived. Borrower incentive payments do not accrue during the Trial Period; however, in the first month of the modification, the borrower will accrue incentive payments equal to the number of months in the trial period in addition to any accrual earned during the first month of the modification.

If and when the loan ceases to be in good standing (i.e., three monthly payments are due and unpaid on the last day of the third month), the borrower will cease to be eligible for any further incentive payments after that time, even if the borrower subsequently cures his or her delinquency. The borrower will lose his or her right to any accrued incentive compensation when the loan ceases to be in good standing.

Servicers must place the borrower incentives into an existing custodial account.

### **FHA HOPE for Homeowners**

Servicers will be required to consider a borrower for refinancing into the FHA HOPE for Homeowners program when feasible. **Consideration for a HOPE for Homeowners refinance should not delay eligible borrowers from receiving a modification offer and beginning the trial period. Servicers must use the modification options to begin the HAMP modification and work to complete the HOPE for Homeowners refinance during the trial period.**

### **Compliance**

**Treasury has selected Freddie Mac to serve as its Compliance Agent for the HAMP. In its role as Compliance Agent, Freddie Mac will conduct independent compliance assessments. Fannie Mae-approved servicers are subject to the compliance guidelines outlined in Supplemental Directive 09-01 issued by Treasury on April 6, 2009, available through HMPAdmin.com, which may be updated from time to time.**

### **HomeSaver Forbearance**

HomeSaver Forbearance is a new loss mitigation option available to borrowers that are either in default or for whom default is imminent and who do not qualify for the HAMP. A servicer should offer a HomeSaver Forbearance if such borrowers have a willingness and ability to make reduced monthly payments of at least one-half of their contractual monthly payment. The plan should reduce the borrower’s payments to an amount the borrower can afford, but no less than 50 percent of the borrower’s contractual monthly payment, including taxes and insurance and any

other escrow items at the time the forbearance is implemented. During the six month period of forbearance, the servicer should work with the borrower to identify the feasibility of, and implement, a more permanent foreclosure prevention alternative. The servicer should evaluate and identify a permanent solution during the first three months of the forbearance period and should implement the alternative by the end of the sixth month.

### **Incentive Fee**

Servicers will receive a \$200 incentive fee upon successful reporting to Fannie Mae of the initiation of a HomeSaver Forbearance plan and the collection of one payment under the forbearance plan. Servicers are eligible for one HomeSaver Forbearance incentive fee during the life of the loan. A servicer will also be eligible to receive an incentive upon the successful completion of the resulting permanent foreclosure prevention alternative as outlined in Announcement 08-20 and Announcement 08-33.

### **Reporting Requirements**

A servicer is required to submit information on an encrypted Microsoft Excel<sup>®</sup> spreadsheet that outlines the terms of the HomeSaver Forbearance plan. Servicers are required to submit weekly HomeSaver Forbearance updates to Fannie Mae through the upload functionality in HSSN. Each weekly report must be submitted on the first business day of the following week. The weekly reports should include information on new HomeSaver Forbearance plans and on the payments received from borrowers under such plans. For any month in which the end of the month occurs on a business day other than a Friday, the servicer must provide two weekly updates:

1. One update for the business day(s) in that week to month end; and
2. One update for the business day(s) in that week for the new month

Both updates must be provided on the first business day of the following week.

A sample Excel spreadsheet outlining the data elements, specifying the order in which the data elements must be presented, and containing instructions for submitting the spreadsheet is available on [eFannieMae.com](http://eFannieMae.com).

### **Mortgage Insurer Approval**

Granting forbearance is contingent on the servicer's ability to ensure the continuation of mortgage insurance coverage. Fannie Mae has obtained blanket delegations of authority from most mortgage insurers so that servicers can grant HomeSaver Forbearances without having to obtain mortgage insurer approval on individual mortgage loans to extend the delinquency beyond the date that foreclosure proceedings would otherwise be required to begin. Fannie Mae has posted and will maintain on [eFannieMae.com](http://eFannieMae.com) a list of the mortgage insurers from which it receives a delegated authority agreement for the HomeSaver Forbearance. Servicers must continue to obtain mortgage insurer approval on a case-by-case basis from any mortgage insurer for which we have not yet received a delegated authority agreement. Servicers should consult their mortgage insurance providers for specific processes related to the reporting of forbearance

terms, payment of premiums, payment of claims, and other operational matters in connection with forbearances granted under HomeSaver Forbearance.

Servicers are reminded that, in accordance with *Servicing Guide*, Part III, Section 103.04: Advances to Cover Expenses, a servicer must advance the funds to cover the monthly remittance of the full mortgage insurance premium in the event that the borrower's deposit account does not have enough funds due to the reduction in the monthly payment amount.

## **New Workout Hierarchy**

As a result of the introduction of the HAMP and HomeSaver Forbearance, Fannie Mae is establishing a new workout hierarchy which establishes the preferred order of consideration of foreclosure prevention alternatives to resolve a delinquency. The new hierarchy supersedes the previously announced "RAMPD" hierarchy introduced in Announcement 08-14. **A servicer should first evaluate a borrower to determine if the HAMP is appropriate, and if not, the servicer should then determine whether the borrower is eligible for an alternative foreclosure prevention option based on whether the borrower is experiencing a temporary or permanent financial hardship.**

### **Temporary Hardship**

For a borrower who is expected to overcome a temporary financial hardship and be able to make future scheduled payments in addition to an amount to cure any outstanding arrearage over time, the following foreclosure prevention alternatives should be considered. Notwithstanding the options below, in the event a borrower requires a particular workout that the servicer deems to be in both Fannie Mae and the borrower's best interest, the servicer is strongly encouraged to submit the workout case to Fannie Mae for review and approval.

- Forbearance — A temporary reduction or suspension of payments which must be immediately followed by an arrangement to cure the delinquency.
- Repayment Plan — An arrangement in which a borrower agrees to pay down past due amounts while still making regularly scheduled payments.
- HSA — A monetary advance to cure a delinquent loan resulting in a separate unsecured loan for the arrearage amount.

### **Permanent Hardship**

For a borrower who has experienced a permanent or long-term/enduring financial hardship, foreclosure prevention alternatives should be considered in the following preferred order:

- HomeSaver Forbearance — For a borrower who is not eligible for, or who does not meet the terms of the HAMP but has the willingness and ability to make reduced monthly payments of at least half the borrower's contractual monthly payment.

- Other Forbearance — A temporary reduction or suspension of payments (subject to the limits of the governing MBS trust document under which that mortgage loan was pooled), which will culminate in a more permanent foreclosure prevention alternative listed below.

**Note: The HSA is not an appropriate foreclosure prevention alternative, and must not be used, for a borrower with a permanent or long-term financial hardship.**

Once a borrower is on a HomeSaver Forbearance or other forbearance, the following options, along with any new programs that may become available, should be considered in the following preferred order:

- Modification — For mortgage loans that are ineligible for the HAMP, such as non-owner occupied property, any permanent change to the terms of a mortgage loan, including changes to the interest rate, interest and expense capitalization, or changes to the loan term.
- Pre-Foreclosure Sale — For delinquent mortgage loans, the acceptance of a sales contract prior to a foreclosure sale resulting in a payoff of less than the total amount owed on the mortgage loan and release of the mortgage lien.
- Deed-in-Lieu — For delinquent mortgage loans, the voluntary transfer of title from a borrower to the servicer to satisfy the mortgage loan and avoid foreclosure (also called a "voluntary conveyance").

### **Retirement of the Streamlined Modification Program (SMP) and the Early Workout Program**

Effective March 4, 2009, servicers can no longer offer the SMP to borrowers. The HAMP will replace the SMP. Servicers must continue to offer the original SMP terms to borrowers that are completing SMP trial payment periods after the SMP end date. Once the borrower completes the SMP trial payment period the SMP modification will become effective. A borrower who defaults on an SMP is eligible for an HAMP. However, if a borrower contacts a servicer directly to inquire about converting to the HAMP prior to the execution of the SMP Agreement, and the borrower meets all the eligibility requirements of the HAMP, the servicer may offer the borrower the HAMP. The borrower will be required to meet all the terms of the HAMP, execute the Trial Period Plan, and enter into a new trial payment period.

The Early Workout Program was announced in Announcement 08-31. At that time, Fannie Mae promised additional information on the program. The implementation of the HAMP will also replace the Early Workout Program.

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Servicers should contact their Servicing Consultant, Portfolio Manager, or the National Servicing Organization's Servicer Support Center at 1-888-FANNIE5 (1-888-326-6435) if they have any questions about this Announcement.

Michael A. Quinn  
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