

Supplemental Directive 11-04

May 18, 2011

Making Home Affordable Program – Single Point of Contact for Borrower Assistance

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program to stabilize the housing market and help struggling homeowners get relief and avoid foreclosure. In March 2009, the Treasury Department (Treasury) issued uniform guidance for loan modifications by participants in MHA across the mortgage industry and subsequently updated and expanded that guidance. In May 2011, Treasury issued version 3.1 of the *Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages (Handbook)*, a consolidated resource for guidance related to the MHA Program for mortgage loans that are not owned or guaranteed by Fannie Mae and Freddie Mac (Non-GSE Mortgages). This Supplemental Directive provides new guidance related to servicers' communications with borrowers during the loss mitigation process and amends and supersedes the notated portions of the *Handbook*.

Servicers that have executed a servicer participation agreement and related documents (SPA) and that have a Program Participation Cap (as defined in the SPA) of \$75,000,000 or more as of the date of this Supplemental Directive must follow the guidance set forth in this Supplemental Directive. However, all servicers that have executed a SPA are encouraged to adopt the guidance in this Supplemental Directive. This guidance does not apply to second lien mortgage loans that may be eligible for the Second Lien Modification Program. This guidance also does not apply to mortgage loans that are owned or guaranteed by Fannie Mae or Freddie Mac, or insured or guaranteed by a federal agency, such as the Federal Housing Administration, Veterans Administration or the Department of Agriculture's Rural Housing Service.

Single Point of Contact for Borrower Assistance

Section 2 of Chapter II of the *Handbook* details minimum requirements for communication between participating servicers and borrowers who are potentially eligible for the Home Affordable Modification Program (HAMP). Section 2.2.2 of Chapter II of the *Handbook* further sets forth requirements for the servicer following its establishment of Right Party Contact, which is defined as a successful effort by the servicer to communicate with the borrower about resolution of the borrower's delinquency. Section 4 of Chapter IV of the *Handbook* details minimum requirements for communication between participating servicers and borrowers who may be eligible for the Home Affordable Foreclosure Alternatives Program (HAFA). Each servicer subject to this Supplemental Directive must establish and implement a process through which borrowers who are potentially eligible for HAMP, the Home Affordable Unemployment Program (UP) or HAFA are assigned a relationship manager to serve as the borrower's single point of contact through the entire delinquency or imminent default resolution process. This

Supplemental Directive is effective September 1, 2011; however, servicers may begin to implement the changes outlined herein immediately.

Assignment of Relationship Manager

The same relationship manager is responsible for managing the borrower relationship throughout the entire delinquency or imminent default resolution process, including any home retention and non-foreclosure liquidation options, and, if the loan is subsequently referred to foreclosure, must be available to respond to borrower inquiries regarding the status of the foreclosure.¹ No later than the effective date of this Supplemental Directive, the servicer must assign a relationship manager to a delinquent borrower or a borrower who requests consideration under imminent default immediately upon the successful establishment of Right Party Contact with the borrower and the determination that the servicer will consider the borrower for HAMP, UP or HAFA. Borrowers who are in the process of being evaluated for HAMP, UP or HAFA, who are in a Trial Period Plan or an UP forbearance plan or who have executed a HAFA Short Sale or Deed-In-Lieu Agreement as of the effective date of this Supplemental Directive must be assigned a relationship manager no later than November 1, 2011.

Borrowers who were determined to be ineligible for HAMP, UP or HAFA prior to the effective date of this Supplemental Directive and who request re-evaluation after the effective date must be assigned a relationship manager if the servicer determines that there has been a significant change in the borrower's circumstances that merits a re-evaluation in accordance with existing guidance.

In all of these circumstances, the relationship manager must provide written notice to the borrower within five business days of the assignment, which notice must include a toll-free telephone number and at least one other method by which the borrower may directly contact the relationship manager, as well as the preferred means by which documents should be delivered by the borrower to the servicer. The relationship manager must attempt to initiate contact with the borrower promptly following the assignment. All references in this Supplemental Directive to communication with the borrower include communication with the borrower's authorized advisor as instructed by the borrower. If the servicer has already established a single point of contact for a borrower, that single point of contact may continue to serve as the relationship manager without the need for additional notification to the borrower, provided all other requirements of this Supplemental Directive are met.

In the event that it is necessary to change the relationship manager (e.g., relationship manager no longer employed, work responsibilities change, on extended leave), the servicer must provide written notification of the changed contact information to the borrower within five business days of assignment of the new relationship manager.

¹ This requirement does not modify, supplant, or otherwise affect obligations that servicers separately may be under, outside of MHA guidance, to continue the single point of contact's management of the borrower relationship through the foreclosure process.

Relationship Manager Responsibilities

The relationship manager has primary responsibility for coordinating the servicer's actions to resolve the borrower's delinquency or imminent default until all available home retention and non-foreclosure liquidation options have been exhausted and for communicating those actions to the borrower. When other servicer personnel with specialized expertise communicate with the borrower, the servicer must ensure that the relationship manager is aware of the content and outcome of those communications. The relationship manager's responsibilities include, without limitation:

- Communicating the options available to the borrower for resolving the delinquency or imminent default, the actions the borrower must take to be considered for those options, the timing requirements for completion of actions by the borrower and the servicer, and the status of the servicer's evaluation of the borrower for those options;
- Coordinating maintenance and tracking of documents provided by the borrower so that the borrower generally will not be required to resubmit the same documented information, and that the borrower is notified promptly of the need for additional information;
- Being knowledgeable about the borrower's situation and current status in the entire delinquency or imminent default resolution process, including any home retention or non-foreclosure liquidation options; and
- Coordinating with other personnel (in-house or third-party) responsible for ensuring that a borrower who is not eligible for MHA programs is considered for other available proprietary loss mitigation options.

Additionally, the relationship manager must be aware of MHA program requirements and timelines and must coordinate with the borrower and in-house and third-party servicer personnel to promote compliance with those requirements and timelines.

If a loan is referred to foreclosure and loss mitigation options have been exhausted so that the relationship manager is no longer actively managing the relationship with the borrower, the relationship manager must continue to be available to respond to borrower inquiries related to the borrower's foreclosure status. If a foreclosure sale is scheduled, the servicer must, prior to completion of the written pre-foreclosure certification required under Section 3.4.3 of Chapter II of the *Handbook*, obtain from the relationship manager affirmation via email or other writing that, to the best of the relationship manager's knowledge, all available loss mitigation alternatives have been exhausted and a non-foreclosure outcome could not be reached.

In order to carry out these responsibilities the relationship manager must have:

- Access to current information and personnel (in-house or third-party) sufficient to timely and accurately inform the borrower of the current status of the workout, liquidation and/or foreclosure activities; and

- Direct and immediate access to personnel with the authority to stop foreclosure proceedings when necessary or appropriate to comply with MHA program guidelines, and an obligation to communicate immediately to such personnel any information received by the relationship manager indicating that it may be necessary or appropriate to stop a foreclosure proceeding as required by MHA program guidelines.

The term “relationship manager” means an employee of the servicer that manages the relationship with the borrower during the delinquency or imminent default resolution process and is not intended to imply that such individual has personnel management responsibilities.

Staffing and Caseload Management

Each servicer must develop and implement a policy that identifies experience and training requirements for the relationship manager position and the appropriate caseload levels to ensure that relationship managers can successfully fulfill the requirements of this Supplemental Directive. The policy must include a provision for providing effective relationship management to borrowers whose primary language is a language other than English. The relationship manager must be supported by an organizational structure that is capable of carrying out the relationship manager’s responsibilities described in this Supplemental Directive when the relationship manager is not available.

Impact of Servicing Transfers

When a servicer subject to this Supplemental Directive transfers or assigns mortgage loans, or servicing rights relating to mortgage loans, the transferee servicer must assume the transferor’s obligations under the SPA to provide a relationship manager as set forth herein only if the transferee servicer has executed a SPA and is otherwise subject to this Supplemental Directive. In addition, if the borrower of a transferred loan previously had been assigned a relationship manager by the transferor servicer, the transferor servicer must identify such loan for, and cooperate with, the transferee servicer to facilitate the transfer to a new relationship manager. The transferee servicer must provide written notification of the change to the borrower that includes a toll-free telephone number and at least one other method by which the borrower may directly contact the relationship manager, as well as the preferred means by which documents should be delivered by the borrower to the transferee servicer. Such notice must be provided on or before the 30th calendar day following the date of transfer, as defined in Regulation Z, 12 CFR 226.39(b)(2).

Impact on Escalated Cases

If the servicer receives an Escalated Case (as defined in Section 3.2 of Chapter I of the *Handbook*), the servicer must involve the relationship manager as appropriate and necessary to resolve the Escalated Case. Following resolution, the relationship manager must have access to all documentation related to the Escalated Case. Treasury does not intend for the existence of a relationship manager to alter the existing responsibilities of the servicer in managing and resolving Escalated Cases as set forth in Section 3 of Chapter I of the *Handbook*.

If the borrower notifies the relationship manager that he or she wishes to escalate a complaint or dispute an ineligibility decision, the relationship manager must assist the borrower in contacting the servicer's staff handling Escalated Cases and, upon request, must provide contact information for MHA Help, reachable through the Homeowner's HOPE™ Hotline (888-995-HOPE).

Compliance

Servicers must include in their internal quality assurance plan (as defined in Section 2.7 of Chapter I of the *Handbook*), or through other means such as Internal Audit, appropriate assessments of relationship manager activities.

These assessments should include, but are not limited to, coverage of the following areas:

- Timing of communications to borrowers about relationship manager assignment and changes;
- Relationship manager access to information, including the borrower's current status in the delinquency or imminent default resolution process, and appropriate training to understand the information;
- Relationship manager coordination of document and information flow to and from borrowers;
- Relationship manager's access to individuals with the ability to stop foreclosure proceedings when necessary to comply with MHA requirements;
- Organizational structure and staffing levels such that relationship managers can properly carry out responsibilities;
- Relationship manager input on the certification prior to foreclosure sale required under Section 3.4.3 of Chapter II of the *Handbook*;
- Servicer communications with borrowers in the event of servicing transfers; and
- Relationship manager notification when cases are escalated under Section 3.2 of Chapter I of the *Handbook*.

EXHIBIT A
MHA HANDBOOK MAPPING

I. NEW HANDBOOK SECTIONS

A. A new Section 2.7.4 of Chapter I is inserted in its entirety as follows:

2.7.4 Relationship Manager Assessment

Servicers who are subject to Section 4 must include in their internal quality assurance plan, or through other means such as Internal Audit, appropriate assessments of relationship manager activities.

These assessments should include, but are not limited to, coverage of the following areas:

- Timing of communications to borrowers about relationship manager assignment and changes;
- Relationship manager access to information, including the borrower's current status in the delinquency or imminent default resolution process, and appropriate training to understand the information;
- Relationship manager coordination of document and information flow to and from borrowers;
- Relationship manager's access to individuals with the ability to stop foreclosure proceedings when necessary to comply with MHA requirements;
- Organizational structure and staffing levels such that relationship managers can properly carry out responsibilities;
- Relationship manager input on the certification prior to foreclosure sale required under Section 3.4.3 of Chapter II;
- Servicer communications with borrowers in the event of servicing transfers; and
- Relationship manager notification when cases are escalated under Section 3.2 of Chapter I.

B. A new Section 3.2.3 of Chapter I is inserted in its entirety as follows:

3.2.3 Single Point of Contact

If the servicer receives an Escalated Case that is associated with a borrower who has been assigned a relationship manager in accordance with Section 4, the servicer must involve the relationship manager as appropriate and necessary to resolve the Escalated Case. Following resolution, the relationship manager must have access to all documentation related to the Escalated Case. Treasury does not intend for the existence of a relationship manager to alter the existing responsibilities of the servicer in managing and resolving Escalated Cases.

C. A new Section 4 of Chapter I is inserted in its entirety as follows:

4 Single Point of Contact

Servicers that have a Program Participation Cap of \$75,000,000 or more as of May 18, 2011, must establish and implement a process through which borrowers who potentially are eligible for HAMP, UP, or HAFA are assigned a relationship manager to serve as the borrower's single point of contact. The same relationship manager is responsible for managing the borrower relationship throughout the entire delinquency or imminent default resolution process, including any home retention and non-foreclosure liquidation options, and, if the loan is subsequently referred to foreclosure, must be available to respond to borrower inquiries regarding the status of the foreclosure.

Each such servicer must assign a relationship manager to a delinquent borrower or a borrower who requests consideration under imminent default immediately upon the successful establishment of Right Party Contact with the borrower and the determination that the servicer will consider the borrower for HAMP, UP or HAFA. Borrowers who are in the process of being evaluated for HAMP, UP, or HAFA, who are in a TPP or an UP forbearance plan or who have executed a SSA or DIL Agreement as of September 1, 2011 must be assigned a relationship manager no later than November 1, 2011. Borrowers who were determined to be ineligible for HAMP, UP or HAFA prior to September 1, 2011 and who request re-evaluation after that date must be assigned a relationship manager if the servicer determines that there has been a significant change in the borrower's circumstances that merits a re-evaluation in accordance with Section 1.2 of Chapter II.

In all of these circumstances, the relationship manager must provide written notice to the borrower within five business days of the assignment, which notice must include a toll-free telephone number and at least one other method by which the borrower may directly contact the relationship manager, as well as the preferred means by which documents should be delivered by the borrower to the servicer. The relationship manager must attempt to initiate contact with the borrower promptly following the assignment. All references in this Section 4 to communication with the borrower include communication with the borrower's authorized advisor as instructed by the borrower. If the servicer has already established a single point of contact for a borrower, that single point of contact may continue to serve as the relationship manager without the need for additional notification to the borrower, provided all other requirements of this Section 4 are met.

In the event that it is necessary to change the relationship manager (e.g., relationship manager no longer employed, work responsibilities change, on extended leave), the servicer must provide written notification of the changed contact information to the borrower within five business days of assignment of the new relationship manager.

4.1 Relationship Manager Responsibilities

The relationship manager has primary responsibility for coordinating the servicer's actions to resolve the borrower's delinquency or imminent default until all available home retention and non-foreclosure liquidation options have been exhausted and for communicating those actions to the borrower. When other servicer personnel with specialized expertise communicate with the borrower, the servicer must ensure that the relationship manager is aware of the content and outcome of those communications. The relationship manager's responsibilities include, without limitation:

- Communicating the options available to the borrower for resolving the delinquency or imminent default, the actions the borrower must take to be considered for those options, the timing requirements for completion of actions by the borrower and the servicer, and the status of the servicer's evaluation of the borrower for those options;
- Coordinating maintenance and tracking of documents provided by the borrower so that the borrower generally will not be required to resubmit the same documented information, and that the borrower is notified promptly of the need for additional information;
- Being knowledgeable about the borrower's situation and current status in the entire delinquency or imminent default resolution process, including any home retention or non-foreclosure liquidation options; and
- Coordinating with other personnel (in-house or third-party) responsible for ensuring that a borrower who is not eligible for MHA programs is considered for other available proprietary loss mitigation options.

Additionally, the relationship manager must be aware of MHA program requirements and timelines and must coordinate with the borrower and in-house and third-party servicer personnel to promote compliance with those requirements and timelines.

If a loan is referred to foreclosure and loss mitigation options have been exhausted so that the relationship manager is no longer actively managing the relationship with the borrower, the relationship manager must continue to be available to respond to borrower inquiries related to the borrower's foreclosure status. If a foreclosure sale is scheduled, the servicer must, prior to completion of the written pre-foreclosure certification required under Section 3.4.3 of Chapter II, obtain from the relationship manager affirmation via email or other writing that, to the best of the relationship manager's knowledge, all available loss mitigation alternatives have been exhausted and a non-foreclosure outcome could not be reached.

In order to carry out these responsibilities the relationship manager must have:

- Access to current information and personnel (in-house or third-party) sufficient to timely and accurately inform the borrower of the current status of the workout, liquidation and/or foreclosure activities; and

- Direct and immediate access to personnel with the authority to stop foreclosure proceedings when necessary or appropriate to comply with MHA program guidelines, and an obligation to communicate immediately to such personnel any information received by the relationship manager indicating that it may be necessary or appropriate to stop a foreclosure proceeding as required by MHA program guidelines.

If the borrower notifies the relationship manager that he or she wishes to escalate a complaint or dispute an ineligibility decision, the relationship manager must assist the borrower in contacting the servicer's staff handling Escalated Cases and, upon request, must provide contact information for MHA Help.

The term "relationship manager" means an employee of the servicer that manages the relationship with the borrower during the delinquency or imminent default resolution process and is not intended to imply that such individual has personnel management responsibilities.

4.2 Staffing and Caseload Management

Each servicer must develop and implement a policy that identifies experience and training requirements for the relationship manager position and the appropriate caseload levels to ensure that relationship managers can successfully fulfill the requirements of this Section 4. The policy must include a provision for providing effective relationship management to borrowers whose primary language is other than English. The relationship manager must be supported by an organizational structure that is capable of carrying out the relationship manager's responsibilities described in this Section 4 when the relationship manager is not available.

II. CONFORMING CHANGES TO EXISTING HANDBOOK SECTIONS

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

A. Section 1.4 of Chapter I is replaced in its entirety with the following text:

1.4 Transfers of Servicing

1.4.1 Transfer of Eligible Loans

When a participating servicer transfers or assigns mortgage loans, or servicing rights relating to mortgage loans, that constitute Eligible Loans pursuant to the SPA, the transferee servicer must assume the transferor's obligations under the SPA with respect to the transferred Eligible Loans. A transferring servicer may not use a transfer to circumvent its existing obligations under the SPA. If the transferee servicer has signed its own SPA, the Eligible Loans involved in the transfer become subject to the transferee servicer's SPA. If a transferee servicer has not signed its own SPA, it will be required to execute an assignment and assumption agreement, the form of which is attached as an exhibit to the SPA.

A servicer may transfer an Eligible Loan free and clear of all SPA obligations only if one of the circumstances set forth in Section 3.1.1 of Chapter II exists with respect to such loan, and any applicable response period has elapsed, unless a borrower with continued eligibility requests consideration prior to the effective date of the servicing transfer. The transferee servicer is not required to execute an assignment and assumption agreement in order to transfer such loans.

All incentive payments made after successful completion of the trial period will be made to the servicer of record, as indicated on the records of the Program Administrator for Treasury. When negotiating a servicing transfer, the transferor servicer and the transferee servicer should make arrangements as appropriate to account for incentive payments accordingly.

1.4.2 Relationship Manager

When a servicer subject to Section 4 transfers or assigns mortgage loans, or servicing rights relating to mortgage loans, the transferee servicer must assume the transferor's obligations under the SPA to provide a relationship manager only if the transferee servicer has executed a SPA and is otherwise subject to that section. In addition, if the borrower of a transferred loan previously had been assigned a relationship manager by the transferor servicer, the transferor servicer must identify such loan for, and cooperate with, the transferee servicer to facilitate the transfer to a new relationship manager. The transferee servicer must provide written notification of the change to the borrower that includes a toll-free telephone number and at least one other method by which the borrower may directly contact the relationship manager, as well as the preferred means by which documents should be delivered by the borrower to the transferee servicer. Such notice must be provided on or before the 30th calendar day following the date of transfer, as defined in Regulation Z, 12 CFR 226.39(b)(2).

B. Section 2.2 of Chapter I is amended to add the following text as the final bullet in the Section:

- *All policies and procedures related to the servicer's implementation, processes, controls and training related to the relationship manager position, including the appropriate caseload levels.*

C. Section 3.4.3 of Chapter II is amended to add the following text as the final sentence in the Section:

In addition, if the servicer is subject to Section 4 of Chapter I, the servicer must consult the relationship manager and obtain affirmation via email or other writing that, to the best of the relationship manager's knowledge, all available loss mitigation alternatives have been exhausted and a non-foreclosure outcome could not be reached.