

Announcement SVC-2010-15**September 21, 2010****Updates to Fannie Mae's Forbearance, Income Eligibility, and Home Affordable Modification Program Requirements.****Introduction**

In this Announcement, Fannie Mae is updating forbearance plan requirements, revising borrower income eligibility guidelines for mortgage modifications, and reinforcing the availability of Home Affordable Modification Program (HAMP) for FHA-insured mortgage loans.

Although many of the topics included in this Announcement are the subject of Supplemental Directives 10-03 and 10-04 issued by the Treasury Department with respect to non-GSE loans, there are differences between the requirements imposed by Treasury and Fannie Mae. Servicers must apply Fannie Mae's requirements to Fannie Mae mortgage loans as outlined in this Announcement and the *Servicing Guide*.

The topics discussed in this Announcement include:

- Forbearance period requirements
- Forbearance for unemployed borrowers
- Borrower income eligibility for mortgage modifications
- Modification of mortgage loans insured by the FHA under HAMP

Effective Dates

All changes included in this Announcement are effective immediately, except as otherwise noted.

Forbearance Period Requirements***Servicing Guide*, Part VII, Chapter 403: Forbearance**

The *Servicing Guide* provides requirements that the servicer must follow in granting a forbearance (that is, reducing or suspending the borrower's monthly payments for a specified period based on the applicable Trust document) without obtaining Fannie Mae's prior written approval.

Effective with this Announcement, if the servicer wishes to grant a forbearance period longer than six months, it must receive written approval from Fannie Mae. The servicer may approve a forbearance period up to six months without obtaining Fannie Mae approval. This new requirement is effective November 1, 2010.

If a forbearance is granted when a payment default is reasonably foreseeable but before an actual default has occurred, the servicer must follow the current requirements in the *Servicing Guide*.

Forbearance for Unemployed Borrowers

In Supplemental Directive 10-04, Treasury allowed servicers the flexibility to provide assistance to borrowers whose hardship is related to unemployment. When a borrower is unemployed, a HAMP trial period plan or permanent HAMP modification may not be appropriate, and in some cases, the borrower may not have the ability to make the required payments.

This Announcement requires servicers to consider unemployed borrowers for Fannie Mae forbearance before consideration for a permanent modification through HAMP. Borrowers will be evaluated for HAMP at the earlier of re-employment or 30 calendar days prior to the expiration of the forbearance plan.

Borrowers who are not offered any type of forbearance plan must be evaluated for HAMP, excluding from monthly gross income unemployment benefits and any other temporary sources of income related to unemployment, such as severance payments (as noted in the Borrower Income Eligibility section below).

If the borrower is not eligible for HAMP, the servicer must send the borrower a Non-Approval Notice in accordance with the *Servicing Guide*, Part VII, Chapter 610: Home Affordable Modification Program, and describe other foreclosure alternatives for which the borrower may be eligible, including but not limited to, short sale or deed-in-lieu of foreclosure programs.

Conversion from HAMP Trial Period Plan to a Forbearance Plan

A borrower who is currently in a HAMP trial period plan and becomes unemployed may seek consideration for forbearance. The servicer, however, cannot require an unemployed borrower in a trial period plan to convert to a forbearance plan.

Once the borrower completes a forbearance plan and is determined to be eligible for HAMP again, the borrower must complete a new HAMP trial period plan. To determine eligibility, the borrower must submit complete and updated HAMP documentation, including the [Home Affordable Program Request for Modification and Affidavit](#) (RMA) and updated proof of income. However, the borrower will not be required to re-submit the IRS *Short Form Request for Individual Tax Return Transcript* (Form 4506T-EZ) if the servicer has already obtained a tax transcript for the most recent tax year.

Forbearance Plan Terms

The minimum forbearance period is the lesser of six months or upon notification that the borrower has become re-employed. The servicer must establish procedures for tracking borrowers' employment status and include any applicable instructions to the borrower.

For forbearance plans exceeding six months, the servicer must obtain Fannie Mae's prior written approval, as noted above. Any forbearance plan granted over six months must be communicated in writing to the borrower.

The servicer must have written procedures for determining when a payment will be required during a forbearance plan and how the payment amount will be determined, and must consistently apply those procedures (as noted in the Documentation Requirements section below). If there is a monthly mortgage payment due under a forbearance plan, it must be less than the amount of the borrower's regular monthly payment.

When a payment is required under the forbearance plan, the servicer must receive the borrower's payment on or before the last day of the month in which it is due. If the borrower fails to make timely payments, the forbearance plan may be canceled and the borrower is not eligible for HAMP consideration. The servicer should use good business judgment in determining whether forbearance payments were received in a timely manner or if mitigating circumstances caused the payment to be late. Exceptions must be documented by the servicer.

Servicers are reminded that for mortgage loans in MBS pools, the duration of the forbearance period is based on the aggregated number of months in forbearance without a full cure of the delinquency. In no event may a forbearance period extend past the last scheduled payment date of the mortgage loan. (Refer to the *Servicing Guide*, Part VII, Chapter 403: Forbearance for additional details.)

Ineligible for Forbearance

If a borrower is determined to be ineligible for forbearance, the servicer must communicate this decision to the borrower in writing along with the primary reason for ineligibility. The notice must be mailed no later than 10 business days following the date of the servicer's determination that a forbearance plan will not be offered. The notice must also describe other foreclosure alternatives for which the borrower may be eligible, if any, including but not limited to HAMP, other home retention programs, or short sale or deed-in-lieu of foreclosure programs. The notice must also identify the steps the borrower must take in order to be considered for those options.

Mortgage Insurance

As noted in the *Servicing Guide*, Part II, Section 102: Conventional Mortgage Insurance, the servicer must keep in effect any borrower-purchased mortgage insurance that existed when Fannie Mae acquired the mortgage, unless the conditions Fannie Mae imposes for replacing or canceling the coverage are met. In addition, the servicer must keep in effect any lender-purchased mortgage insurance that existed when Fannie Mae acquired the mortgage until the mortgage is paid in full. In light of the changes to HAMP and forbearance requirements described in this Announcement, the servicer may be required to provide notice to or obtain the consent of the mortgage insurer for any workout (e.g., modification, short sale, deed-in-lieu) or if forbearance will preclude adherence to the timeframes required for various actions (e.g., the initiation of foreclosure proceedings) under the mortgage insurance policy.

Late Fees

Servicers are reminded that late charges may accrue while the servicer is determining borrower eligibility for a forbearance plan and during the forbearance period. However, the servicer must not assess late charges to the borrower during the forbearance period. Additionally, all accrued and unpaid late charges must be waived in the event the borrower receives a permanent HAMP modification.

Transition from Forbearance to HAMP

At the earlier of 30 calendar days following notification that the borrower has found employment or 30 calendar days prior to expiration of the forbearance period, the servicer must provide a HAMP-eligible borrower with the appropriate HAMP documents. Upon receipt of the completed Initial Package from the borrower, the servicer must evaluate the borrower for HAMP. Both the borrower and servicer must adhere to the timing and notice requirements in this Announcement. The servicer may extend the forbearance period by a maximum of 30 calendar days as needed to allow the borrower time to submit the needed documentation. However, if this 30-day extension results in a total forbearance period that is longer than the initial six months, the servicer must obtain Fannie Mae's prior written approval, as noted above.

If the borrower is determined to be ineligible for HAMP or other home retention options, the borrower must be considered for other foreclosure alternatives, such as Home Affordable Foreclosure Alternatives or other short sale and deed-in-lieu of foreclosure programs.

When evaluating a borrower for HAMP and calculating the borrower's total monthly mortgage payment ratio under the trial, the borrower's monthly gross income must include the new employment income as verified by an offer letter, first paystub, or other documentation consistent with the judgment employed by servicers when modifying mortgage loans held in their own portfolio. Any arrearage accrued during the forbearance should be capitalized as part of the standard HAMP modification process.

Mediation Requirements in Florida

For mortgage loans secured by properties in Florida, servicers should refer to Announcement SVC-2010-13, *Mandatory Pre-Filing Mediation Policy for Mortgage Loans in Florida* for additional requirements.

Reporting Requirements

Reporting to Fannie Mae

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

The servicer must report a Delinquency Status Code 09 - Forbearance during the forbearance.

The data submitted must be accurate, complete, timely, and agree with the servicer's records. As discussed previously, a borrower in an active HAMP trial period plan is eligible for a forbearance plan. However, a borrower may not simultaneously be in a HAMP trial period plan and a forbearance plan.

Reporting to Treasury for Mortgage Loans that were in an Active Trial Plan

Active trial period plans must be reported to Treasury as cancelled in the month in which the forbearance plan becomes effective. Thirty days prior to the expiration of the forbearance plan or when the borrower becomes re-employed, eligible borrowers may transition from a forbearance plan into a HAMP trial. The servicer must provide loan-level reporting at the following key transition milestones:

- Exit from HAMP trial period plan to a forbearance plan – The servicer must submit applicable data including a Trial Fallout Reason Code indicating that the borrower is entering into a forbearance plan.
- Transition from a forbearance plan to HAMP trial period plan – If the borrower transitions from a forbearance plan into a HAMP trial period plan, the servicer must submit a HAMP trial setup transaction with attributes indicating that the borrower had a forbearance plan.

Changes to several data reporting attributes under HAMP are required to enable servicers to report an exit from HAMP to a forbearance plan and a transition from a forbearance plan to a HAMP trial period plan. All forbearance plan reporting requirements and any updates will be posted at HMPAdmin.com.

Reporting to Credit Bureaus

The servicer should continue to report a “full-file” status report to the four major credit repositories for each mortgage loan in a forbearance plan in accordance with the Fair Credit Reporting Act and credit bureau requirements as provided by the Consumer Data Industry Association.

Documentation Requirements

With respect to forbearance plans, documentation that must be maintained by the servicer includes, but is not limited to, the following:

- Written policies and procedures relating to forbearance plans, including:
 - determining borrower re-employment status,
 - determining when a forbearance plan requires a payment and how the payment amount is determined,
 - canceling any existing HAMP trial modifications determined to be eligible for a forbearance plan, and
 - the decision-making process when applying discretion or business judgment as outlined in this Announcement.
- For phone contact with borrowers related to forbearance plans, well-documented servicer system notes (including but not limited to date, names of contact persons, and a summary of the conversation) will constitute appropriate documentation. Written correspondence must be retained in an accessible manner and made available upon request.

Servicers are reminded that within 30 calendar days following receipt of a HAMP Initial Package or complete verification documents, the servicer must complete its verification and evaluate the borrower’s eligibility for HAMP.

Borrower Income Eligibility for Mortgage Modifications

Servicing Guide, Part VII, Section 610.03.05: Verifying Borrower Income and Occupancy Status and Announcement SVC-2010-08: Updates to the Requirements for Evaluating Borrowers for Fannie Mae's Standard Mortgage Modification

Fannie Mae's current guidelines allow for servicers to use unemployment income as a source for qualifying a borrower for a modification, including HAMP modifications. Fannie Mae is eliminating unemployment insurance benefits as an allowable source of income when evaluating a borrower for HAMP or any other modification. The servicer may no longer consider unemployment insurance benefits and any other temporary sources of income related to unemployment, such as severance payments, as part of the monthly gross income for mortgage loans being evaluated for a modification. This new requirement is effective November 1, 2010.

Modification of Mortgage Loans Insured by the FHA under HAMP

Servicing Guide, Part VII, Section 610.01: HAMP Eligibility

FHA mortgage loans that are held in Fannie Mae's portfolio or that are part of an MBS pool that has the special servicing option or a shared-risk MBS pool for which Fannie Mae markets the acquired property are eligible for the FHA-HAMP as outlined in [FHA Mortgagee Letter 2009-23, Making Home Affordable Program: FHA's Home Affordable Modification Loss Mitigation Option](#). Fannie Mae servicers with mortgage loans insured by FHA are reminded to continue following FHA's requirements relating to the FHA-HAMP program. Fannie Mae will not be paying servicer or borrower incentives for HAMP modifications of FHA-insured mortgage loans.

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

Gwen Muse-Evans
Vice President
Chief Risk Officer for Credit Portfolio Management