Announcement SVC-2010-11 **August 16, 2010**

Unique Hardships

Introduction

The *Servicing Guide,* Part VII, Section 406: Disaster Relief, allows servicers to grant relief for borrowers affected by a disaster or catastrophe caused by an event beyond the borrower's control. In Part VII, Section 403: Forbearance, Fannie Mae allows servicers to grant forbearance to borrowers who are experiencing a financial hardship caused by a circumstance unlike those currently defined in the *Servicing Guide*.

With this Announcement, Fannie Mae is identifying situations that warrant the use of relief provisions for borrowers impacted by unusual circumstances that create financial hardship. It also classifies three "unique hardships" and the actions servicers may take to accommodate borrowers who are struggling with such hardships.

Definition of "Unique Hardship"

A "unique hardship" is characterized as an event or financial hardship that:

- is unlikely to re-occur and is not a natural or manmade disaster;
- is temporary in nature or of limited scope, but impacts many borrowers;
- may involve property damage, hazard in the dwelling, or other adverse property conditions;
- creates financial hardship that impacts the ability of the borrower to continue making payments on the mortgage loan;
- may involve uncertainty regarding whether insurance will cover the losses incurred; and
- has been designated as a "unique hardship" by Fannie Mae.

Servicers may not treat an event as a "unique hardship" without Fannie Mae's approval. Servicers may not apply this policy to any borrower other than those experiencing a hardship that Fannie Mae has specifically defined as a unique hardship. Fannie Mae will identify and update its guidelines to classify other circumstances as "unique hardships" as appropriate.

Fannie Mae has identified the following as "unique hardships" that may impact the borrower's ability to continue making mortgage loan payments. The documentation requirements supporting the reason for the hardship are also provided below.

Problem drywall: The mortgage loan is secured by a property that contains problem drywall that was new when installed between 2001 and 2008 and for which the borrower has incurred a financial hardship due to costs associated with additional housing expenses and remediation.

- If the mortgage loan is *current*, the servicer must request documentation from the borrower supporting the installation of new drywall. If the borrower cannot provide supporting

documentation, the servicer must require a property inspection to confirm the existence of problem drywall.
- If the mortgage loan is *delinquent and the contributory cause of the delinquency is expenses related to repairs of problem drywall*, the servicer must require a property inspection to confirm the existence of problem drywall.
- If the mortgage loan is *delinquent and the reason for the delinquency <u>does not</u> involve expenses related to repairs of problem drywall,* the servicer must determine another foreclosure prevention alternative action given the reasons for the delinquency and proceed accordingly.

U.S. service member injured while on active duty: The borrower is a U.S. service member and is unable to continue making the mortgage loan payment due to an injury sustained while on active duty.

- The servicer must receive documentation of the injury sustained by the borrower during active duty that is impacting his or her ability to pay the mortgage loan.

Death of a U.S. service member while on active duty: The borrower is unable to continue making his or her mortgage loan payment due to the death of a U.S. service member who was either (i) a borrower or (ii) a family member of the borrower who significantly contributed to the mortgage loan payment. The service member must have died while on active duty.

- The servicer must obtain a death certificate and other documentation indicating that the service member's death occurred while on active duty.

Forbearance

The servicer must consider forbearance as an option when the servicer has determined that a unique hardship has affected the borrower's ability to make the mortgage loan payments. Under forbearance, the servicer can agree to reduce or suspend the borrower's monthly payments for a specified period. Forbearance may be offered by itself or in combination with other special relief measures or foreclosure prevention alternatives. For further details on requirements for foreclosure prevention alternatives, refer to the *Servicing Guide,* Part VII: Delinquency Management and Default Prevention, and subsequent Announcements.

Servicer Responsibilities

- The servicer may grant forbearance based on the borrower's needs, up to a period of six months.
- The servicer must determine the borrower's ability to contribute to the mortgage loan payment. The servicer must not automatically suspend payments during forbearance.
- Forbearance terms must be in writing. For further details on the requirements, refer to Part VII, Section 403: Forbearance.
- The servicer must actively work towards finding another special relief measure or a permanent foreclosure prevention solution during the forbearance period that will cure the delinquency, should additional measures be needed.
- The servicer must periodically contact the borrower(s) to obtain an updated status on the financial hardship.
- Credit bureau reporting must be suspended during the forbearance period to minimize a derogatory impact.

Documenting and Verifying Gross Monthly Income

In all situations, the servicer must evaluate the borrower's financial condition based on verified income to determine whether the borrower can remediate the issue and to determine the forbearance terms. Verified income documentation is required to determine the extent of the financial impact caused by the borrower's unique hardship and must not be more than 90 days old from the date of evaluation. The servicer should rely upon the following income documentation requirements, which are consistent with those outlined in Announcement SVC-2010-08, *Updates to the Requirements for Evaluating Borrowers for Fannie Mae's Standard Mortgage Modification*, to determine the extent of the borrower's financial hardship.

If the borrower is employed:

- Copies of the two most recent paystubs, or if not available, a copy of the most recent paystub indicating year-to-date earnings.

If the borrower has other earned income such as bonus, commission, fee, housing allowance, tips, overtime:

- Reliable third-party documentation describing the nature of the income (for example, an employment contract or printouts documenting tip income).

If the borrower is self-employed:

- A signed copy of the most recent federal income tax return, including all schedules and forms, if available, or a Transcript of Tax Return resulting from an executed Internal Revenue Service *Request for Transcript of Tax Return* (Form 4506-T); and
- Copies of bank statements for the business account for the last two months to document continuation of business activity.

If the borrower elects to use alimony or child support income to qualify:

- 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;
- Documents supplying reasonably reliable evidence of full, regular, and timely payments, such as bank deposit slips or bank statements for the last two months; and
- The servicer must have determined that the income will continue for three years in order for the income to be considered in calculating the terms of the forbearance.

If the borrower has other income such as Social Security, disability or death benefits, a pension, public assistance, or adoption assistance:

- Letters, exhibits, a disability policy or benefits statement from the provider that states the amount, frequency, and duration of the benefit; and
- Copies of the most recent bank statement showing these deposits.

If the borrower receives unemployment income:

- Letters, exhibits, or a benefits statement from the provider that states the amount, frequency, and duration of the benefit. The servicer must have determined that the income will continue for at least nine months from the date of the eligibility determination.

If the borrower has rental income:

- Copies of all pages from the borrower's signed federal income tax return and Schedule E – *Supplemental Income and Loss*, for the most recent tax year.

    - When Schedule E is not available because the property was not previously rented, the servicer may accept a current lease agreement and bank statements or cancelled rent checks.
    - If the borrower has rental income from a one- to four-unit property that is also the borrower's principal residence, the monthly net rental income to be calculated must equal 75 percent of the gross rent, with the remaining 25 percent being considered vacancy loss and maintenance expense.
    - If the borrower has rental income from a property that is other than the borrower's principal residence, the income should be 75 percent of the monthly gross rental income, reduced by the monthly debt service on the property (i.e., principal, interest, taxes, insurance, including mortgage insurance and association fees, if applicable).

Borrower Evaluation

Upon confirmation of the unique hardship and the impact on the borrower's finances, the servicer must evaluate the borrower's circumstances to determine whether forbearance is the appropriate relief measure. If the servicer determines that the borrower is not experiencing a financial hardship, the servicer must deny the borrower's request for relief.

Prior to granting any relief measure to a damaged property or hazard in the dwelling, the servicer should remind the borrower to file an insurance claim or take steps to ensure that a claim is filed.

If the servicer determines that the borrower is experiencing a financial hardship, the servicer must document the intended plans of the borrower to remediate the situation and may grant forbearance. The forbearance terms must be based on the individual facts and circumstances. The length of the forbearance term should correlate to the estimated time to cure the unique hardship, the expectation of insurance proceeds (if available), and other relevant facts, up to a period of six months.

During the evaluation, if the servicer determines that the borrower cannot remediate the unique hardship, the servicer should continue to work with the borrower to identify another foreclosure prevention alternative or proceed with foreclosure and resume credit reporting if at any time a determination is made that a foreclosure prevention solution is not feasible. The servicer must notify the borrower in writing of a decision not to proceed with an offer of forbearance.

Reporting Requirements

Reporting to Fannie Mae

Regardless of the status of the borrower's mortgage loan prior to the forbearance, the servicer must report to Fannie Mae the appropriate delinquency status code, the effective date of forbearance, the forbearance program type code, and other required information beginning in the month in which the forbearance plan became effective.

Delinquency Status Reporting

The servicer must report all forbearance plans granted for "unique hardships" using Delinquency Status Code 09 (Forbearance) in the HomeSaver Solutions® Network during the forbearance period.

The servicer must designate Forbearance Program Type Code 3 (Military Assistance Program) for all forbearance plans granted for the following unique hardships:

- U.S. service member injured while on active duty, or
- Death of a U.S. service member while on active duty.

Credit Bureau Reporting

During the forbearance period, the servicer must not report delinquencies to the credit bureaus if it is aware that a borrower's delinquency is directly attributable to financial hardships the borrower has incurred as the result of the unique hardship. The servicer must suspend reporting the status of the mortgage loan to the credit bureaus. The servicer must resume complete and accurate reporting of the mortgage loan status information to the credit bureaus after the forbearance period has ended.

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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.

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