

Lender Letter LL-2010-04**March 18, 2010****TO: All Fannie Mae Single-Family Servicers****Fannie Mae's Alternative Modification to the Home Affordable Modification Program****Introduction**

In Announcement SVC-2010-03, *Home Affordable Modification Program – Program Update and Resolution of Active Trial Modifications*, servicers were instructed how to resolve active trial modifications under the Home Affordable Modification Program (HAMP) at the conclusion of the temporary review period on January 31, 2010. This Lender Letter introduces an alternative to the HAMP modification for those borrowers who were eligible for and accepted into a HAMP trial period plan but were subsequently not offered a HAMP permanent modification because of eligibility restrictions.

For mortgage loans in active HAMP trial period plans initiated prior to March 1, 2010, all Fannie Mae-approved servicers must consider the Alternative Modification™ (“Alt Mod™”) prior to the initiation of foreclosure for all eligible borrowers who were not offered a permanent HAMP modification after making payments under a HAMP trial period plan. All borrowers must meet the eligibility criteria outlined below. The policies in this Lender Letter apply to all conventional mortgage loans held in Fannie Mae’s portfolio and to mortgage loans that are part of an MBS pool that have the special servicing option or a shared-risk MBS pool for which Fannie Mae markets the acquired property. A borrower that entered into a trial period plan prior to March 1, 2010 will be considered eligible for the Alt Mod as long as the case is submitted through the HomeSaver Solutions® Network (HSSN) prior to the final date of the program offering, August 31, 2010.

Eligibility

To be eligible for the Alt Mod, the mortgage loan must first have been evaluated and considered eligible for HAMP as described in Announcement 09-05R, *Reissuance of the Introduction of the Home Affordable Modification Program, HomeSaver Forbearance™, and New Workout Hierarchy*, including confirmation that the mortgage loan is secured by a one- to four-unit owner-occupied property. The HAMP trial period must have been initiated prior to March 1, 2010. The borrower must have made all required payments in accordance with a HAMP trial period plan, including subsequent payments that may have been due while the servicer attempted to convert the trial period to a permanent modification. Any subsequent trial period payment(s) due from the borrower must be submitted prior to executing a permanent modification agreement.

The Alt Mod may be considered if:

- the monthly mortgage payment ratio based on verified income was less than 31 percent,

- the target monthly mortgage payment ratio of 31 percent based on verified income could not be reached using the standard HAMP modification waterfall, or
- the borrower failed to provide all income documentation required for a HAMP modification but the income documentation meets the streamlined income documentation for the Alt Mod (described in the Underwriting section below).

When a borrower is considered eligible for the Alt Mod, the servicer must:

- document the borrower's file to evidence compliance with the requirements for resolving active trial modifications in accordance with Announcement SVC-2010-03,
- cancel the HAMP modification in HSSN and the Treasury Department's system of record, and
- send the borrower the appropriate Borrower Notice as outlined in Announcement 09-36, *Updates to the Home Affordable Modification Program – Borrower Notices and Requirements for Tax Returns, Income Documentation, Title Endorsement and Recordation*. The servicer must include the Alt Mod offer and *Loan Modification Agreement* (Form 3179) with the HAMP Borrower Notice when possible.

The Alt Mod offer must clearly indicate that, while the Alt Mod contains the same payment terms as the HAMP modification, the borrower did not meet the requirements of HAMP and as a result, the Alt Mod does not include borrower incentive payments that are otherwise payable under HAMP.

Before any permanent modification can become effective, the servicer must:

- provide the borrower with a simplified summary of the *Loan Modification Agreement* (a sample summary is available on eFannieMae.com),
- inform the borrower that in the event of redefault the servicer will pursue liquidation options, and
- remind the borrower of the consequences of material misstatements when submitting documentation in connection with a request for a modification.

Timing of Borrower Solicitation and Follow Up

Contacting borrowers in a timely manner is key to the success of the Alt Mod program. As noted above, providing the borrower with an offer for the Alt Mod in conjunction with the HAMP Borrower Notice is preferred. When possible, servicers should contact the borrower prior to receipt of the HAMP Borrower Notice.

For qualified borrowers who are already indentified as ineligible for a permanent HAMP modification, Alt Mod offers should be sent no later than 30 days from the date of this Lender Letter.

Going forward, for other borrowers who entered into a trial period plan prior to March 1, 2010 and failed to qualify for a permanent HAMP modification, but are determined to be eligible for Alt Mod, offers should be sent within 10 days of completion of the HAMP trial period and expiration of the 30-day HAMP Borrower Notice. All Alt Mod offers should also include an expiration date of 30 days from the date of the offer.

For borrowers who do not respond after the Alt Mod offer has been sent, servicers must conduct follow-up:

- between the 5th and the 15th day after the offer is mailed, servicers must attempt at least three phone calls;
- on the 15th day after the offer is mailed, servicers must deliver a follow-up letter, by either mail or a direct contact, door-knocking campaign; and
- between the 15th and 30th day after the offer is mailed, servicers must attempt to contact the borrower a minimum of three additional times by either phone calls or the use of field services (door knockers).

Failure to comply with these guidelines could result in forfeiture of incentive payments to the servicer.

Underwriting

A servicer must have obtained a property valuation as required under the HAMP modification as described in Announcement 09-05R. The servicer must use that valuation to underwrite the Alt Mod.

Mark-to-Market LTV 80 Percent or Greater

If the current mark-to-market LTV ratio (current LTV based upon the new valuation) is 80 percent or greater, the payment calculated for HAMP using the standard modification waterfall should be utilized for the Alt Mod and verification of income documentation as described below is not necessary.

Mark-to-Market LTV Less Than 80 Percent

When the current mark-to-market LTV ratio is less than 80 percent, the payment calculated for HAMP using the standard modification waterfall should be utilized for the Alt Mod, and income verification is required (as described in the Streamlined Income Documentation section below). However, the Alt Mod mortgage payment may not be reduced below 20 percent of the borrower's verified monthly gross income.

- If the borrower did not qualify for a HAMP modification because the borrower failed to provide all required income documentation but the income documentation meets the streamlined income documentation requirements for the Alt Mod, the servicer may use the payment previously calculated for the HAMP trial period for the Alt Mod provided that the payment meets the criteria outlined above.
- If, after applying the modification waterfall steps based on verified income documentation, the borrower's monthly mortgage payment cannot be reduced without going below a 20 percent monthly mortgage payment ratio, the servicer may not perform the modification without the express written consent of Fannie Mae. A principal write-down or principal forgiveness is prohibited on Fannie Mae mortgage loans.

Streamlined Income Documentation

A servicer may use the verified income documentation required under HAMP to calculate the payment for the Alt Mod. If the borrower is ineligible for a HAMP modification because of failure to provide the required income documentation, the servicer may rely upon the following streamlined documentation requirements for the Alt Mod.

If the borrower is employed:

- a copy of the most recent paystub indicating year-to-date earnings or, if year-to-date earnings are not available, copies of paystubs for the last two months.

If the borrower elects to use 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 signed 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, 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; and
- documents supplying reasonably reliable evidence of full, regular, and timely payments, such as bank deposit slips or bank statements for the last two months.

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

- acceptable documentation includes letters, exhibits, a disability policy or benefits statement from the provider that states the amount, frequency and duration of the benefit; and
- the servicer must obtain copies of the most recent bank statement showing these deposits.

If the borrower receives 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 have determined that the income will continue for at least nine months from the date of the HAMP eligibility determination.

If the borrower has rental income, acceptable documentation includes:

- 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, servicers 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 for HAMP purposes 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 primary 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).

Income documentation previously obtained during the HAMP evaluation may be relied upon for the purposes of verifying income for the Alt Mod. All other income documentation must not be more than 90 days old from the date of the Alt Mod evaluation.

Mortgage Insurance Considerations

Mortgage Insurer Approval

Fannie Mae is seeking to obtain blanket delegations of authority from each mortgage insurer so that servicers can more efficiently process an Alt Mod without having to obtain mortgage insurer approval on individual loans. Fannie Mae will post on eFannieMae.com a list of the mortgage insurers from which it has received a delegated authority agreement. Until Fannie Mae obtains a delegated authority agreement from a mortgage insurer on behalf of all servicers, a servicer must obtain mortgage insurer approval on a case-by-case basis.

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 unpaid principal balance (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.

Servicers must maintain their mortgage insurance processes and comply with all reporting required by the mortgage insurer for loans modified under an Alt Mod. 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. Servicers are required to report Alt Mods and the terms of those modifications to the appropriate mortgage insurers, if applicable, within 30 days following the execution of the Alt Mod and in accordance with procedures that currently exist or may be agreed to between servicers and the mortgage insurers.

Escrow Accounts

Servicers are reminded that when a mortgage loan being considered for a HAMP modification is a non-escrowed mortgage loan, 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 and establish an escrow deposit account in accordance with the *Servicing Guide*, Part III, Section 103: *Escrow Deposit Accounts* and Announcement 09-05R. All of the borrower's trial period payments under HAMP as well as the payments due under the Alt Mod must include a monthly escrow amount unless prohibited by applicable law.

Modification Process

Reclassification of MBS Mortgage Loans Prior to Effective Date of Modification

Servicers are reminded that, 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 payment due dates (or at least eight consecutive payment due dates in the case of a biweekly mortgage loan) without a full cure of the delinquency during that period. It is expected that the delinquency requirement will be met after the borrower successfully makes all payments required under the HAMP trial period plan – even though the borrower did not satisfy all conditions that needed to be met to obtain a HAMP modification. Servicers are also reminded that the MBS loan must be properly reclassified before any permanent modification can become effective.

Executing the Modification Agreement

The servicer must prepare a *Loan Modification Agreement* to document the agreed-upon terms of the modification. Servicers must revise the *Loan Modification Agreement* by amending the existing paragraph No. 5 (d) in such agreement to reflect that the borrower will not be charged for administrative and processing costs as described in the Administrative Costs section below.

Unless a borrower or co-borrower is deceased or a borrower and co-borrower are divorced, all parties who signed the original note or security instrument, or their duly authorized representative(s), must provide income documentation and execute the modification agreement. If a borrower and a co-borrower are divorced and the property has been transferred to one borrower in the divorce decree, the borrower who no longer has an interest in the property is not required to execute the modification agreement. In cases where a borrower and co-borrower are unmarried and either the borrower or co-borrower relinquish all rights to the property securing the mortgage loan through a recorded quitclaim deed or other document sufficient under applicable state law to transfer title, the non-occupying borrower who has relinquished property rights is not required to provide income documentation or sign the modification agreement.

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 the signature must not occur until after the mortgage loan has been removed from the MBS pool, and reclassified as a Fannie Mae portfolio mortgage. Servicers can confirm that Fannie Mae has reclassified a mortgage loan by reviewing the Purchase Advice that is posted on the Servicer's Reconciliation Facility (SURF™). Servicers are also reminded that payments received should only be applied in accordance with the modified terms once the servicer has confirmed that Fannie Mae has reclassified the mortgage loan.

Recording the Modification

For all mortgage loans that are modified pursuant to an Alt Mod, the servicer must ensure that the modified mortgage loan retains its first lien position and is fully enforceable. The modification 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 \$50,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under Fannie Mae's mortgage modification alternatives);
- if the final interest rate on the modified mortgage loan is greater than the pre-modified interest rate in effect on the mortgage loan;
- 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 \$50,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under Fannie Mae's mortgage modification alternatives), or
 - the final interest rate on the modified mortgage loan is greater than the pre-modified interest rate in effect on the mortgage loan.
- Record the executed modification agreement if
 - state or local law requires the modification agreement be recorded to be enforceable,
 - the property is located in Cuyahoga County, Ohio,
 - the amount capitalized is greater than \$50,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under our modification alternatives),
 - 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
 - the final interest rate on the modified mortgage loan is greater than the pre-modified interest rate in effect on the mortgage loan.

Reporting Requirements

Reporting Through HSSN

For any mortgage loan that is not modified under HAMP, the servicer must cancel the HAMP modification in HSSN. For mortgage loans eligible for the Alt Mod, the servicer must then enter loan-level data by submitting the Alt Mod as a delegated case into HSSN when a servicer has received a successfully executed Alt Mod Loan Modification Agreement.

When entering the case into HSSN as an Alt Mod case, the servicer will be required to reenter the details of the payment information made under the HAMP trial period plan. The servicer must use HSSN to request reclassification for MBS mortgage loans when appropriate. The servicer must represent and warrant that, after application of all trial period payments made by the borrower whenever the sum of payments total a full payment, the borrower's mortgage loan has been in a continuous delinquent status on each of the last four monthly payment due dates (i.e., the loan was not fully cured during that time) 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 payments by the third business day and for payoff activity by the second business day of each month for the prior month's activity (for example, payoff reporting to be received by April 2nd will contain March activity).

A servicer should report the post modification UPB once the modification is closed in HSSN. For example, for a modification that closed on March 25th, post modification UPB should be reported on the April 3rd LAR. If the servicer submits a LAR to report the post modification UPB before the case is closed in HSSN, an exception will occur.

If the pre-modification UPB or the pre-modification last paid installment (LPI) reported in HSSN for the closed modification does not agree with the pre-modification UPB or LPI in Fannie Mae's investor reporting system, the loan modification will not be processed in the investor reporting system until the discrepancy is resolved.

If, in the final month of the trial period, the sum of unapplied trial period payments is equal to or greater than a full contractual payment, and the loan modification is closed in the same month, the servicer must report the contractual payment before the post modification UPB can be reported. This will require two LARs and two reporting cycles to complete. These exceptions can be avoided by reporting the modification to HSSN in the following month.

Reporting Principal Forbearance

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 the LAR 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. Servicers should contact their Investor Reporting Analyst for any assistance needed when addressing this situation.

Redefault

If a borrower becomes 60 days delinquent on the Alt Mod within the first 12 months after the effective date of the modification, then the servicer must immediately work with the borrower to pursue either a preforeclosure sale, deed-in-lieu of foreclosure or commence foreclosure proceedings, in accordance with applicable state law. Should a servicer determine that another modification is appropriate for the borrower, the servicer must submit the loan information as a non-delegated case into HSSN for Fannie Mae's prior approval.

Fees and Compensation

Late Fees

All late charges, penalties, stop payment fees or similar fees must be waived upon conversion to an Alt Mod.

Administrative Costs

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

To obtain reimbursement for any administrative fees and costs (for example, notary fees, recordation fees, title costs) incurred in connection with an Alt Mod, the servicer should submit a *Cash Disbursement Request* (Form 571) to Fannie Mae. For mortgage loans modified under Alt Mod, Fannie Mae will waive the requirements that the claim equal at least \$500.00 or that the mortgage loan be at least six months delinquent. Administrative fees and costs associated with an Alt Mod should be included on an individual Form 571 and all fees and costs must be entered on the appropriate line item (and not combined under the "Other Fees and Charges" line item). In order for the claim to be paid, servicers must reference Alt Mod in the comments section of the electronic form.

Servicer Incentive Compensation

A servicer will receive compensation of \$800 for each completed modification. Incentive fee payments on eligible mortgage loans will be sent to servicers upon receipt of a closed case entered into the HSSN. Fannie Mae will review eligibility for the modification incentive fee and make the final determination based on information provided by the servicer; therefore, servicers need not submit requests for payment of modification incentive fees. Modification incentive fees on eligible mortgages will be sent to servicers on a monthly basis.

For additional information on the Alt Mod program, including Frequently Asked Questions, sample borrower letters, Income Verification Instructions, and other resources, refer to eFannieMae.com. Servicers may also contact their Servicing Consultant, Portfolio Manager, or the National Servicing Organization's Servicer Support Center at 1-888-FANNIE5 (888-326-6435) with any questions regarding this Lender Letter.

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