Servicing Guide Lender Letter LL-2012-08

October 24, 2012

To: All Fannie Mae Single-Family Servicers

Hardest-Hit Fund® Consolidated Guidance

This Lender Letter consolidates previously issued guidance relating to Hardest-Hit Fund (HHF) programs that are administered by state Housing Finance Agencies (HFAs). The requirements in this Lender Letter apply to servicers as they assist borrowers who are eligible for the following HHF programs:

- unemployment mortgage assistance,
- reinstatement assistance,
- modification assistance, and
- transition assistance.

The requirements in this Lender Letter were announced in the following Lender Letters:

- Lender Letter LL-2010-12: *Making Home Affordable: Interactions with Hardest-Hit Fund Unemployment and Reinstatement Programs,*
- Lender Letter LL-2011-01R: *Making Home Affordable: Further Guidance on Interactions with Hardest-Hit Fund Unemployment and Reinstatement Programs,*
- Lender Letter LL-2012-02: *Hardest-Hit Fund Transition Assistance and Policy Clarifications,* and
- Lender Letter LL-2012-06: *Hardest-Hit Fund® Modification Assistance Programs.*

General Requirements

The requirements outlined in this Lender Letter apply to all conventional mortgage loans:

- held in Fannie Mae's portfolio,
- sold to Fannie Mae for cash and subsequently securitized into MBS pools (known as Pooled from Portfolio or PFP mortgage loans), or
- that are part of an MBS pool serviced under the special servicing option or a shared-risk MBS Pool for which Fannie Mae markets the acquired the property.

Collection and Solicitation Activity

For borrowers who are conditionally approved by an HFA for HHF unemployment, modification, or reinstatement assistance, servicers may cease collection and solicitation activities. If the servicer receives notice that a borrower's approval status has changed, it must resume collection and solicitation activities as required by the *Servicing Guide*, Part VII, Chapter 2: Collection Procedures, and related announcements. Servicers are reminded that decisions to cease (or resume) collection activities, based on conditional approval for HHF programs, must be appropriately documented in their servicing systems.

Most servicers who participate in HHF programs communicate with the HFAs via common data file (CDF). Through the CDF, servicers and HFAs transmit records to indicate the status of a mortgage loan. The trigger for ceasing collection and solicitation activities or suspending foreclosure actions, as described below, is the servicer's receipt of the "I" record, which signifies a borrower's conditional approval in the CDF.

Additionally, servicers must keep the attorney (or trustee) advised about the status of relevant foreclosure prevention alternative negotiations, which includes HHF program participation.

Reminder Regarding Mortgage Insurance

Servicers are reminded that, as described in the *Servicing Guide* in 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.

For mortgage loans where scheduled payments have been funded, or partially funded, with assistance from an HHF unemployment program, but where such loans are not brought current, servicers may need to provide notice to or request consent of the mortgage insurer if the resulting forbearance will preclude adherence to the time frames required for various actions (for example, the initiation of foreclosure proceedings) under the mortgage insurance policy.

Foreclosure Actions

Servicers are required to comply with the foreclosure process requirements in the *Servicing Guide* and related announcements. If an HFA notifies the servicer that a borrower has been approved for HFA assistance under unemployment mortgage assistance or reinstatement program, the servicer must not refer the mortgage loan to foreclosure or conduct a scheduled foreclosure sale for 45 days. The servicer may extend the suspension of foreclosure actions beyond 45 days, as necessary, to facilitate the processing of HHF assistance, provided that:

- it continues to validate with the HFA that the borrower's status has not changed,
- the action is in compliance with its agreement with the HFA, and
- it obtains Fannie Mae's prior approval for any suspension beyond 60 days.

If a notice of trustee/sheriff sale has been recorded and the servicer is notified of borrower approval by the HFA, the servicer may postpone the foreclosure proceedings. If, however, foreclosure proceedings have been initiated and a sheriff or foreclosure sale is scheduled less than seven days from the date the servicer is notified of borrower approval by the HFA, the servicer should not notify the attorney (or trustee) to "place on hold" or suspend the foreclosure proceedings.

Reporting

The servicer must be able to readily identify on its servicing system any borrower who is participating in an HHF program. Furthermore, the servicer must establish processes to be able to provide this information to Fannie Mae upon request.

Servicers are not required to report a Delinquency Status Code for current mortgage loans with borrowers participating in any of these programs. If a borrower is delinquent, the servicer must report Delinquency Status Code 09 (Forbearance) and Delinquency Reason Code 16 (Unemployment) for the period of HFA unemployment mortgage assistance, if applicable.

Unemployment Mortgage Assistance Programs

Each of the participating HFAs has established an HHF program to provide assistance to unemployed borrowers. HHF unemployment program details vary by HFA. Borrowers in an HHF unemployment program can either be current or delinquent and the property must be the borrower's principal residence.

Each HFA will determine if a borrower qualifies for its program. As part of the qualification process, the HFA will contact the servicer to confirm a borrower's monthly payment and loan status. If the borrower is approved for the HHF program, the HFA will notify the servicer with the details of the approval, including the timing of the payments from the HFA to the servicer.

The program may either pay all or a portion of a borrower's monthly mortgage payment for a specified period of time. In the event the HFA requires a borrower to make a portion of the payment, the HFA or its third party vendor is responsible for collecting amounts due from the borrower and forwarding the funds to the servicer. The HFA or its third party vendor will send a full monthly payment on behalf of the borrower to the servicer. Servicers must apply these payments as described in the *Servicing Guide*, Part III, Section 101: Scheduled Mortgage Loan Payments.

Fannie Mae Forbearance

A borrower cannot simultaneously be under a Fannie Mae forbearance that allows for a reduced payment and an HHF unemployment program. If a borrower is currently in a forbearance payment arrangement with the servicer and is accepted into the HHF program, the servicer must cancel the forbearance payment arrangement and accept funds from the HHF unemployment program.

HAMP Trial

A borrower in a HAMP trial period may not use HHF unemployment program funds to make his or her trial period payments. A borrower who is currently in a HAMP Trial Period Plan and becomes unemployed may seek consideration for an HHF unemployment program. If the borrower is accepted into an HHF unemployment program, the borrower's HAMP Trial Period Plan must be terminated. After the period of HHF unemployment mortgage assistance, if the borrower becomes eligible for a HAMP modification, the servicer must evaluate the borrower for a new HAMP Trial Period Plan.

> NOTE: *When a mortgage loan is canceled from a forbearance payment plan or a HAMP Trial Period Plan because the borrower is proceeding with the HHF program, the servicer must continue to report the Delinquency Status Code 09 (Forbearance), to reflect the mortgage loan's delinquent status.*

HAMP Permanent Modification

If a mortgage loan has been permanently modified under HAMP, a borrower who subsequently becomes unemployed may use an HHF unemployment program to make monthly mortgage payments. Should a borrower remain unemployed upon completion of an HHF unemployment program, the servicer must evaluate the borrower for one of Fannie Mae's foreclosure prevention alternatives, including forbearance. The servicer must follow the guidance for Fannie Mae's foreclosure prevention alternatives as outlined in the *Servicing Guide* and related announcements.

If the borrower was not in a permanent HAMP modification and has become re-employed, the servicer must consider the borrower for HAMP, should the borrower experience a financial hardship and need payment assistance. An unemployed borrower who has failed a permanent HAMP modification and becomes re-employed can only be evaluated for a Fannie Mae modification.

Reinstatement Assistance

HFAs may also offer a reinstatement program, which provides funds to bring the borrower's mortgage loan current or reduce the delinquency. If a borrower receives both reinstatement and unemployment mortgage assistance, reinstatement may occur either before or after the period of HFA unemployment assistance. The servicer must accept funds from an HHF reinstatement program to cure or reduce a borrower's delinquency.

Modification Assistance Programs

In *Servicing Guide* Announcement SVC-2011-18: *Updates to Delinquency Management and Default Prevention Requirements*, Fannie Mae issued guidance that applies when the servicer receives funds from a third party, such as an HFA or similar entity. Servicers must continue to work closely with the HFAs and eligible borrowers to provide necessary information for program participation. Servicers are reminded that SVC-2011-18 applies to HFA modification assistance programs, and its guidance must be followed in conjunction with the guidance in this Lender Letter and any other applicable sections of the *Servicing Guide*. Servicers must comply with HFA guidance in connection with mortgage loans receiving HFA assistance, unless the HFA guidance conflicts with Fannie Mae's servicing guidelines. In that situation, servicers must adhere to Fannie Mae's requirements.

Loan Recast

An HFA modification assistance program may involve a loan recast or reamortization-only element. In a loan recast, the participating HFA evaluates the borrower using the HFA's eligibility guidelines and approves the provision of modification assistance program funds to achieve the program's affordability objectives. Servicers must accept these funds and apply them in accordance with Part III, Section 102.01: Additional Principal Payments, of the *Servicing Guide*. Additionally, the borrower and servicer must execute an *Agreement for Modification of a Mortgage—Reamortization Only* (Form 181HFA), available on Fannie Mae's website, to document the loan recast.

In accordance with the *Servicing Guide*, servicers may approve a loan recast for any current or delinquent portfolio mortgage loan, or for any current or delinquent mortgage loan in an MBS pool. Loan recasts involving MBS pool loans are not subject to the MBS reclassification requirements provided in the *Servicing Guide*, therefore, an MBS mortgage loan does not have to be removed from the pool prior to effectuating the loan recast.

Any loan recast in such manner will not be deemed a modification for purposes of determining eligibility for a subsequent modification in accordance with the *Servicing Guide*.

Loan Modification

For mortgage loans that are modified using HFA modification assistance program funds while also changing the terms of the loan (for example, a rate reduction, term extension, or forbearance), servicers may only apply the funds according to the *Servicing Guide* requirements for a Fannie Mae HAMP modification or standard modification that requires principal forbearance.

HFA modification assistance program funds with a modification involving a change in loan terms must be applied once the borrower has successfully completed a Trial Period Plan and after any MBS loan reclassification, but before the permanent modification effective date. Servicers must apply these funds in accordance with Part III, Section 102.01: Additional Principal Payments, of the *Servicing Guide*. If the servicer does not receive HFA funds prior to the due date of the first modified mortgage payment, the servicer must complete the modification with principal forbearance in accordance with the *Servicing Guide*.

Each of the following documents has been modified to accommodate HFA modification assistance programs:

- The *Evaluation Model Clauses* (HAMP Trial Period Plan Notice and Non-HAMP Modification Trial Period),

- Modification Cover Letters (*HAMP Modification Cover Letter* and *Form Modification Cover Letter*), and
- *Home Affordable Modification Agreement* for a Fannie Mae HAMP modification (Form 3157), or the Fannie Mae standard *Loan Modification Agreement* (Form 3179), as applicable.

> NOTE: *A borrower who has received HFA modification assistance program funds may not subsequently request reapplication of principal prepayments as outlined in Part VII, Section 305: Reapplying Principal Prepayments, of the Servicing Guide.*

Transition Assistance Programs

Several HFAs have established transition assistance programs (TAPs) to provide assistance to borrowers who are working towards preforeclosure sales or deeds-in-lieu of foreclosure. Each participating HFA has its own eligibility guidelines, evaluates borrower eligibility, and approves the provision of HHF funds for transition or relocation assistance. Fannie Mae encourages servicers to refer borrowers to state HFAs when working with borrowers on preforeclosure sales or deeds-in-lieu of foreclosure.

As part of the qualification process, the HFA will contact the servicer to confirm a borrower's loan status. Servicers must work closely with the HFAs and eligible borrowers to provide necessary information for program participation. If the borrower is approved for TAP funding, the HFA will notify the servicer of the approval. In nearly all of the HFA programs, TAP funds go directly to the borrower at or after closing a preforeclosure sale or deed-in-lieu transaction.

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Servicers should contact their Servicing Consultant, Portfolio Manager, Investor Reporting Business Analyst, or Fannie Mae's National Servicing Organization's Servicing Solutions Center at 1-888-FANNIE5 (1-888-326-6435) with any questions regarding this Lender Letter.

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