



# LERNER SAMPSON & ROTHFUSS

OHIO & KENTUCKY

## Recent Loss-Mitigation Developments

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### I. Attachments

- **March 2017 Freddie Mac Flex Modification Reference Guide;**
- **Freddie Mac Single-Family Seller/Servicer Guide (Guide) Bulletin 2016-22;**
- **Freddie Mac Guide Bulletin 2017-1;**
- **Fannie Mae Flex Modification Fact Sheet;**
- **CFPB's Principles for the Future of Loss Mitigation;**
- **Guiding Principles for the Future of Loss Mitigation: How the Lessons Learned from the Financial Crisis can Influence the Path Forward" issued by Treasury, the Department of Housing and Urban Development (HUD), and FHFA; and**
- **Mortgage Banker's Association "One Mod: Principles for Post-HAMP Loan Modifications"**

## Introduction

The Freddie Mac Flex Modification (Flex Modification) provides eligible borrowers who are 60 days or more delinquent (and the property is a primary residence, second home, or investment property), or current or less than 60 days delinquent and in imminent default (and the property is a primary residence), an option to resolve any associated delinquency and sustain homeownership.

You must obtain mortgage insurance (MI) approval before offering a Trial Period Plan or ensure that the applicable MI has provided a delegation of authority that applies to the requested modification.

All Freddie Mac Servicers are delegated to approve a Freddie Mac Flex Modification in accordance with the requirements outlined in *Single-Family Seller/Servicer Guide* (Guide) Chapter 9206. Refer to Guide Chapter 9101 for additional information if the mortgage is secured by a primary residence and the borrower is denied a Flex Modification based upon the First Complete Borrower Response Package.

If you have any questions, contact your Freddie Mac servicing representative or Customer Support at 800-FREDDIE.

This reference guide provides information on the following:

- When you must implement the Flex Modification
- Eligibility requirements for Flex Modifications
- Mortgages that are ineligible for Flex Modifications
- How to evaluate and solicit a borrower for a Flex Modification
- How to determine estimated and final modification terms
- Trial period guidelines and Servicer incentive payments

## When to Implement the Flex Modification

You must begin evaluating borrowers for the Flex Modification no later than October 1, 2017. If you want to implement the Flex Modification prior to the mandatory implementation date of October 1, 2017, you may begin evaluating borrowers and generating the terms for the Flex Modification using your proprietary systems.

Once you begin to evaluate borrowers for the Flex Modification, you must discontinue evaluations for Freddie Mac Standard Modifications and Streamlined Modifications.

**Note:** Workout Prospector® will be updated by May 1, 2017 to process terms and settle Flex Modifications. Once Workout Prospector has been updated, you may use either Workout Prospector or your proprietary systems to generate the terms of Flex Modification Trial Period Plans. Regardless of how the terms are generated, you must submit data relating to any Flex Modification Trial Period Plans to Freddie Mac via Workout Prospector beginning May 1, 2017.

### Eligibility Requirements for Flex Modifications

The following table highlights the borrower, property, mortgage, and housing expense-to-income ratio eligibility requirements for a Flex Modification. For more information on these eligibility requirements refer to Guide Section 9206.5.

Flex Modification Eligibility Requirements	
<b>Borrower Eligibility</b>	<p>The borrower must be:</p> <ul style="list-style-type: none"> <li>▪ 60 days or more delinquent, or</li> <li>▪ Current or less than 60 days delinquent (i.e., less than three monthly payments past due), occupy the property as a primary residence, and determined to be in imminent default in accordance with Guide Section 9206.7</li> </ul> <p><b>Note:</b> Use a credit report to verify that the borrower is occupying the property.</p> <p>Refer to Guide Section 9206.7 for the imminent default evaluation process and requirements.</p> <p>The borrower must submit a Borrower Response Package and have the following:</p> <ul style="list-style-type: none"> <li>▪ An eligible hardship per Guide Section 9202.2 that is causing or expected to cause a long-term or permanent decrease in income and/or increase in expenses</li> <li>▪ Stable verified income to support a monthly payment</li> </ul> <p><b>Note:</b> Unemployment is considered a temporary hardship. You must consider unemployed borrowers for unemployment forbearance under Guide Sections 9203.22 through 9203.24. Unemployment benefits may not be considered a source of income for a modification.</p> <p><b>Streamlined Eligibility for Certain Borrowers</b></p> <p>Certain eligibility exceptions apply for a borrower who:</p> <ul style="list-style-type: none"> <li>▪ Is 90 days delinquent or greater, or</li> <li>▪ Has a step-rate mortgage and the borrower:                             <ul style="list-style-type: none"> <li>– Becomes 60 days delinquent within the 12 months following the first payment due date resulting in an interest rate adjustment, and</li> <li>– Has not submitted a complete Borrower Response Package</li> </ul> </li> </ul> <p>For additional information, refer to <u>Streamlined Offer for Flex Modifications</u> in this reference guide.</p>
<b>Property</b>	<p>The existing mortgaged property must be:</p> <ul style="list-style-type: none"> <li>▪ Owner-occupied (primary residence) <b>Note:</b> The property must be a primary residence if the borrower is current or less than 60 days delinquent.</li> <li>▪ Second home or non-owner occupied* (investment property)</li> </ul>

**Flex Modification Eligibility Requirements, continued**

**Mortgage Eligibility**

- The mortgage must:
  - Be a conventional first-lien mortgage currently owned in whole or part by Freddie Mac
  - Have been originated at least 12 months prior to the evaluation date
- The estimated post-modification P&I payment must be less than or equal to the pre-modification P&I payment. Refer to Guide Section 9206.10 for additional payment reduction requirements that may apply.
  - For borrowers participating in the Servicemembers Civil Relief Act (SCRA) at the time of evaluation, you must consider the P&I payment in effect prior to granting the SCRA relief instead of the temporarily reduced monthly payment based on the SCRA interest rate cap when you determine if the modified mortgage results in a P&I payment that is less than or equal to the pre-modification P&I payment.
  - If the mortgage being modified is an adjustable-rate mortgage or an interest only mortgage, you must consider the monthly payment due (whether that payment due is a P&I payment or an interest-only payment) in effect at the time you determine eligibility for a Flex Modification Trial Period Plan.
- If the mortgage is subject to an indemnification agreement, you have discretion to approve the mortgage modification provided the following conditions are met:
  - The modified mortgage retains its credit enhancement.
  - If you are not the credit enhancement provider, you must first obtain in writing any required approval under the terms of the credit enhancement from the entity providing the enhancement to enter into a modification agreement that complies with the requirements in Guide Chapter 9206; and
  - You remit to Freddie Mac an annual payment for the amount of all modification-related costs (e.g., interest rate shortfall) as calculated by Freddie Mac pursuant to Freddie Mac's "Modification Loss Amount" methodology. The Modification Loss Amounts due will be calculated on a monthly basis, and billed on an annual basis for the life of the modified mortgage. If the mortgage is subject to a partial indemnification, each year you will be billed the appropriate percentage of the Modification Loss Amount that corresponds with the partial indemnification agreement. Freddie Mac will determine the Modification Loss Amounts in accordance with a process described in Guide Bulletin 2016-5, as amended, and Guide Bulletin 2017-1.

**Note:** You are not eligible to receive an incentive for completing a modification on a mortgage that is subject to an indemnification agreement. Refer to Guide Section 9204.6 for more information.
- If the mortgage is secured by a leasehold estate, the term of the lease (or any exercised option to renew the lease, or any renewal options that are enforceable by the leasehold mortgagee, whichever is applicable) must not terminate earlier than five years after the maturity date of the proposed modified mortgage. In the event that the current term of the lease (or applicable renewal options) terminates earlier than five years after the maturity date of the proposed modified mortgage, the term of the lease must be renegotiated in order to satisfy this requirement prior to offering the borrower a Trial Period Plan.

Flex Modification Eligibility Requirements, continued	
<b>Housing Expense-to-Income Ratio</b>	<p>The estimated post-modification housing expense-to-income ratio* must be equal to or less than 40 percent.</p> <p>For primary residences, calculate by taking the monthly PITIAS payment divided by monthly gross income as defined in Guide Section 9206.10. Refer to page 11 for additional information about the PITIAS payment.</p> <p>Refer to Guide Section 9206.5 for requirements for second homes and investment properties.</p> <p><b>*Note:</b> The P&amp;I portion of the estimated post-modification housing expense-to-income ratio is based on the estimated P&amp;I payment determined at the time of evaluation and not at the time of final modification approval. The estimated P&amp;I payment is based on the estimated interest-bearing UPB that you expect the borrower to have at the time of modification following the trial period. The estimated interest-bearing UPB is based on estimated capitalization amounts of interest and non-interest arrearages that accrue during the trial period plus amounts that have accrued prior to your evaluation.</p>

### Exclusions

Any mortgage or borrower that does not meet the eligibility requirements is not eligible for you, the Servicer, to approve under delegated authority.

Mortgages that are ineligible for a Flex Modification include:

- FHAVA and Guaranteed Rural Housing loans
- Mortgages subject to recourse
- Mortgages secured by second homes or non-owner occupied properties (i.e., investment properties) where the borrower is current or less than 60 days delinquent

The following mortgages and borrowers are also ineligible for a Flex Modification. However, you may seek Freddie Mac approval for an exception to any of the following exclusions if you believe the borrower should be considered for a Flex Modification. For additional information, refer to "Exceptions" below.

- Mortgages that have been previously modified three or more times
- Mortgages previously modified with the Flex Modification terms in Guide Section 9206.10 and the mortgage became 60 or more days delinquent within 12 months of the modification effective date (in this instance, the first modified payment due date) and the borrower has not brought the mortgage current following the delinquency
- Borrowers who, within 12 months of the evaluation date, failed a Flex Modification Trial Period Plan and the terms of the Trial Period Plan were determined in accordance with Guide Section 9206.10(a)
- Mortgages subject to an approved short sale or deed-in-lieu transaction
- Borrowers who are currently performing under another Trial Period Plan, forbearance plan, or repayment plan
- Mortgages that are currently subject to an unexpired offer to the borrower for another modification or other alternative to foreclosure, such as a forbearance or repayment plan

### Exceptions

If a borrower does not meet the eligibility requirements outlined in Guide Section 9206.5, he or she is ineligible for a Flex Modification under your delegated authority. However, if you believe, based on an evaluation of a complete Borrower Response Package, that the borrower should be considered for a Flex Modification, you must transmit the exception request via Workout Prospector®. Refer to the [Workout Prospector Users' Guide](#) for additional information.

You may send the following exceptions to Freddie Mac for consideration:

- Borrower's hardship is not covered under the definition of eligible hardship in Guide Section 9202.2
- Mortgages that have been previously modified three or more times

- Mortgages previously modified with the modification terms determined in accordance with Guide Section 9206.10 and the mortgage became 60 or more days delinquent within 12 months of the Modification Effective Date and the borrower has not brought the mortgage current following the delinquency
- Borrowers who, within 12 months of the evaluation date, failed a Trial Period Plan and the terms of that Trial Period Plan were determined in accordance with Guide Section 9206.10
- Mortgages subject to an approved short sale or deed-in-lieu transaction
- Borrowers who are currently performing under another Trial Period Plan, forbearance plan, or repayment plan
- Mortgages that are currently subject to an unexpired offer to the borrower for another modification or other alternative to foreclosure, such as a forbearance or repayment plan

### **Soliciting the Borrower for a Flex Modification**

Borrower solicitation must follow the requirements in Guide Section 9102.5. Generally, you may begin soliciting borrowers who are 31 or more days delinquent in accordance with the processes and timelines set forth in Guide Section 9102.5 in order to determine the reason for delinquency and solicit them for possible alternatives to foreclosure.

If you have not achieved quality right party contact and a resolution to the delinquency, you are required to send at least one Borrower Solicitation Package or solicitation letter to the delinquent borrower no later than the 45<sup>th</sup> day after the due date of the oldest unpaid monthly installment.

You may send either:

- A Borrower Solicitation Package, which includes the following:
  - Guide Exhibit 1145, *Freddie Mac Borrower Solicitation Letter*, and
  - Form 710, *Uniform Borrower Assistance Form*, and
  - Frequently asked questions (FAQs) and foreclosure rescue scam information.

**OR**

- Guide Exhibit 1145 and elect to send Form 710, FAQs and foreclosure rescue scam information upon establishing quality right party contact.

You may also provide the FAQs and foreclosure rescue scam information on your web site and provide a link to that information in the Borrower Solicitation Letter.

In addition, in either situation above, you may elect to send either IRS Form 4506-T or 4506T-EZ or you may obtain and process the appropriate form at a later date if any of the circumstances in Guide Section 9102.5(c) occur.

If you have achieved quality right party contact and have obtained from the borrower a resolution to the delinquency, you are not required to send the Borrower Solicitation Package. However, you must comply with any early intervention notice that may be required under applicable law. If the borrower fails to perform under the conditions of a relief or workout option, you must resume collection efforts, including sending the Borrower Solicitation Package.

### **Streamlined Offer for Flex Modifications**

When a borrower becomes 90 days delinquent, or has a step-rate mortgage and becomes 60 days delinquent within the 12 months following the first payment due date resulting from an interest rate adjustment, you must determine if the borrower is eligible for a streamlined offer for a Flex Modification in accordance with Guide Section 9206.5(c). For these borrowers, a Borrower Response Package is not required, and you are not required to confirm the borrower's hardship or income. However, you must continue to comply with the requirements outlined in Guide Sections 9206.5(b) and 9206.6 to determine eligibility. If you determine the borrower is eligible, solicit the borrower for a Flex Modification. For additional information, refer to [Flex Modification Trial Period Plan Notice for Streamlined Eligibility](#) in this reference guide or Guide Section 9102.5.

**Note:** Ensure that you either obtain the applicable MI's approval of the terms of each modification on a case-by-case basis, or ensure that the applicable MI has provided a delegation of authority to the Servicer that applies to the requested modification before you send a borrower a streamlined offer for a Flex Modification.

**Applicable Only to Borrowers with Step-Rate Mortgages:**

If the borrower submits a complete Borrower Response Package prior to becoming 90 days delinquent, and **has not yet** accepted the streamlined offer for a Flex Modification, you must complete your review of the package for each alternative to foreclosure in accordance with the evaluation hierarchy outlined in Guide Section 9201.2, and once a borrower is eligible for a particular alternative to foreclosure, you must offer that alternative to foreclosure and deny the borrower for any alternative to foreclosure lower on the evaluation hierarchy.

If the borrower submits a complete Borrower Response Package prior to becoming 90 days delinquent and **has** accepted the streamlined offer for a Flex Modification Trial Period Plan, you must determine if the borrower is eligible for additional payment relief as a result of the Post-Modification Housing Expense-to-Income (PMHTI) ratio component of the Flex Modification terms. If the borrower is eligible for additional payment relief, you must permit the borrower continue making the existing Trial Period Plan payments, but you must update the modification agreement to reflect the lower payment amount and additional forbearance relief.

**Evaluating the Borrower for a Flex Modification**

Before evaluating a borrower for a Flex Modification, you must follow the evaluation hierarchy outlined in Guide Section 9201.2.

In general, in order to consider a borrower for a Flex Modification the following criteria must be met:

- For a current borrower, determination that a refinance or relief refinance is not available
- Determination that a reinstatement or relief option is not feasible (e.g., the borrower is unable to reinstate, partially reinstate, or enter into a repayment plan to cure the delinquency or has a long-term or permanent hardship)

You should consider a borrower for a Flex Modification if the borrower:

- Lacks sufficient monthly income to support current mortgage payments (including escrow amounts) and if the mortgage is not escrowed, any other amounts due related to the mortgage
- Suffers or suffered an eligible hardship

Refer to Guide Section 9202.2 for a description of eligible hardships and the associated documentation requirements that the borrower must provide to document it.

**Documentation Requirements for Flex Modifications**

A complete Borrower Response Package per Guide Section 9102.5 is required for all borrowers. The information provided in the Borrower Response Package will assist you in determining modification eligibility and, if applicable, making a determination regarding imminent default.

A complete Borrower Response Package includes the following:

- Completed and signed Form 710, *Uniform Borrower Assistance Form*
- Hardship documentation per Guide Section 9202.2
- Income documentation per Guide Section 9202.3
- If applicable, imminent default hardship documentation per Guide Section 9206.7 for borrowers less than 60 days delinquent

If required under Guide Section 9202.3, you must obtain the borrower's tax transcript by processing the borrower's signed IRS Form 4506-T or 4506T-EZ or obtain a copy of the borrower's most recent federal income tax return.

### Determine the Post-Modification MTMLTV Ratio

Calculate the post-modification (post-capitalization) MTMLTV ratio by dividing the sum of the interest-bearing UPB, any applicable non-interest bearing UPB, and/or arrearages that may be capitalized in accordance with the Guide, by the property valuation specified in Guide Section 9206.8.

Example: Interest-bearing and non-interest-bearing UPB = \$200,000 Arrearages = \$10,000  
 Property valuation = \$100,000  
 $(\$200,000 + \$10,000) \div \$100,000 = 210\%$  post-modification MTMLTV ratio

### Determine Eligibility for a Flex Modification Trial Period Plan Based on Estimated Modification Terms: Post-Modification MTMLTV Ratio Greater than or Equal to 80 Percent

Complete the steps outlined below to determine eligibility for a Flex Modification Trial Period Plan based on estimated modification terms when the post-modification MTMLTV ratio is greater than or equal to 80 percent. Perform these steps during your evaluation of a borrower for a Trial Period Plan and, then again, to determine the final modification terms, when the final capitalized amounts are known.

**Note:** Reasonable changes in capitalization amounts between what was estimated at the time of evaluation for a Trial Period Plan and the final modification terms may not impact the previous eligibility determination.

1. Capitalize known and estimated arrearages per the requirements of Guide Section 9206.15 to arrive at the estimated post-modification gross UPB.
2. Verify that the post-modification (post-capitalization) MTMLTV ratio is **greater than or equal to 80 percent**.
3. Determine the interest rate you will use to calculate the Trial Period Plan payment and the terms of the modification agreement:

If the existing mortgage is:	Then:
A fixed-rate mortgage (This includes step-rate mortgages or ARMs with no subsequent steps or adjustments.)	You must use the lesser of Freddie Mac's posted interest rate for Flex Modifications or the pre-modification interest rate to calculate the Trial Period Plan payment and use that same rate to establish the terms of the permanent modification.
ARMs or step-rate mortgages with subsequent steps or adjustments scheduled	The lesser of Freddie Mac's posted interest rate for Flex Modifications or the maximum step-rate/lifetime cap note rate to calculate the Trial Period Plan payment and use that same rate to establish the terms of the permanent modification.
<p>The Flex Modification interest rate referenced above is the Flex Modification interest rate posted on <a href="http://www.FreddieMac.com/singlefamily/service/standardmodrate.html">www.FreddieMac.com/singlefamily/service/standardmodrate.html</a> as of the date you evaluate and determine the borrower's eligibility for a Trial Period Plan. Freddie Mac reserves the right to adjust the interest rate based on market conditions.</p> <p><b>Note:</b> The interest rate used for the final modification must be the same interest rate used to evaluate the borrower for a Trial Period Plan.</p>	

4. Extend the amortization term to 480 months from the modification effective date.



5. Refer to the following table to determine your next step:

If the post-modification MTMLTV is:	Then you must:
Greater than 100 percent	Forbear principal until the earlier point at which: <ul style="list-style-type: none"> <li>▪ A post-modification interest bearing MTMLTV ratio of 100 percent is achieved, or</li> <li>▪ 30 percent of the post-capitalized UPB (the “forbearance cap”) is achieved.</li> </ul> <b>Note:</b> Interest may not accrue on the forbore (or deferred) principal. Deferred principal is payable upon maturity of the loan modification, sale or transfer of the property, refinance of the mortgage, or payoff of the interest-bearing UPB.
Equal to or greater than 80 percent, but less than or equal to 100 percent	Proceed to step 6.

6. Calculate the estimated modified P&I payment.

7. Answer the following questions:

- Is the estimated modified P&I payment at least 20 percent less than the current P&I payment?
- Is the post-modification housing expense-to-income (PMHTI) ratio equal to or less than 40 percent? (Refer to page 11 in this reference guide for information on how to calculate this ratio.)

If:	And:	Then:
The mortgage is less than 90 days delinquent at the time of evaluation	The answers to both questions are “yes”, you <u>did</u> achieve a minimum 20 percent payment reduction <u>and</u> a PMHTI 40 percent	Offer the modification to the borrower.
	The answer to one or both questions is “no” because you <u>did not</u> achieve a minimum 20 percent payment reduction <u>and/or</u> a PMHTI ratio equal to or less than 40 percent	You must continue to forbear principal, in \$100 increments, until one of the following occurs first: <ul style="list-style-type: none"> <li>▪ A 20 percent P&amp;I payment reduction <u>and</u> a PMHTI ratio equal to or just below 40 percent are both achieved, or</li> <li>▪ A MTMLTV ratio as close as possible to, but not below 80 percent is achieved, or</li> <li>▪ The aggregate forbearance amount equals or is no less than \$100 below the forbearance cap.</li> </ul> If you reach the forbearance cap or 80 percent MTMLTV ratio first, you must offer the modification to the borrower with the maximum permitted forbearance amount provided that the modification still results in a P&I payment that is less than or equal to the borrower’s pre-modification P&I payment. In this case, neither the 20 percent payment reduction nor the 40 percent PMHTI ratio must be obtained.

If:	And:	Then:
<p>The mortgage is 90 days or more delinquent at the time of evaluation</p>	<p>The answer to the first question is "yes", you did achieve a minimum 20 percent payment reduction</p>	<p>Offer the modification to the borrower.</p>
	<p>The answer to the second question is "no", you did <u>not</u> achieve a minimum 20 percent payment reduction</p>	<p>You must continue to forbear principal, in \$100 increments, until whichever of the following occurs first:</p> <ul style="list-style-type: none"> <li>▪ A 20 percent P&amp;I payment reduction is achieved, or</li> <li>▪ An MTMLTV ratio as close as possible to, but not below 80 percent is achieved, or</li> <li>▪ The aggregate forbearance amount equals or is no less than \$100 below the forbearance cap.</li> </ul> <p>If you reach the forbearance cap or 80 percent MTMLTV ratio first, you must offer the modification to the borrower with the maximum permitted forbearance amount provided that the modification still results in a P&amp;I payment that is less than or equal to the borrower's pre-modification P&amp;I payment. In this case, you do not have to achieve a 20 percent payment reduction.</p>

**Determine Eligibility for a Flex Modification Trial Period Plan Based on Estimated Modification Terms: Post-Modification MTMLTV Ratio Less than 80 Percent**

Complete the steps outlined below to determine eligibility for a Flex Modification Trial Period Plan based on estimated modification terms when the post-modification MTMLTV ratio is less than 80 percent. Perform these steps during your evaluation of a borrower for a Trial Period Plan and, then again, when the final capitalized amounts are known to determine the final modification terms. **Note:** Reasonable changes in capitalization amounts between what was estimated at the time of evaluation for a Trial Period Plan and the final modification terms may not impact the previous eligibility determination.

1. Capitalize known and estimated arrearages per the requirements of Guide Section 9206.15 to arrive at the post-modification gross UPB.
2. Verify that the post-modification (post-capitalization) MTMLTV ratio is **less than 80 percent**.
3. Determine the interest rate you will use to calculate the Trial Period Plan payment and the terms of the modification agreement:

If the existing mortgage is:	Then:
A fixed-rate mortgage (This includes step-rate mortgages or ARMs with no subsequent steps or adjustments.)	You must use the existing interest rate on the mortgage to calculate the Trial Period Plan payment and use that same rate to establish the terms of the permanent modification.
ARMs or step-rate mortgages with subsequent steps or adjustments still remaining	You must use the lesser of Freddie Mac's posted interest rate for Flex Modifications or the maximum step-rate/lifetime cap note rate to calculate the Trial Period Plan payment and use that same rate to establish the terms of the permanent modification.
<p>The Flex Modification interest rate referenced above is the Flex Modification interest rate posted on <a href="http://www.FreddieMac.com/singlefamily/service/standardmodrate.html">www.FreddieMac.com/singlefamily/service/standardmodrate.html</a> as of the date you evaluate and determine the borrower's eligibility for a Trial Period Plan. Freddie Mac reserves the right to adjust the interest rate based on market conditions.</p> <p><b>Note:</b> The interest rate used for the final modification must be the same interest rate used to evaluate the borrower for a Trial Period Plan.</p>	

**Note:** The interest rate used for the final modification must be the same interest rate used to evaluate the borrower for a Trial Period Plan.

4. Extend the amortization term to 480 months from the modification effective date.
5. Calculate the estimated monthly P&I payment.

### Post-Modification Housing Expense-to-Income (PMHTI) Ratio Calculations

Follow the steps below to calculate the post-modification housing expense-to-income ratio. You will use this value in step 7 when determining eligibility for a Flex Modification for loans with an MTMLTV greater than 80 percent and less than 90 days delinquent.

#### Step 1: Calculate the PITIAS payment.

The PITIAS payment is the payment that reflects the monthly housing expense on a mortgage and is the sum of the following:

- A modified monthly P&I payment
- Monthly pro rata amount for real estate taxes, plus applicable monthly escrow cushion
- Monthly pro rata amount for property and flood insurance, if applicable, plus applicable monthly escrow cushion
- Monthly pro rata amount of homeowner's association dues, Condominium Unit or cooperative unit maintenance fees, and ground rent, as applicable, and
- If applicable, the projected monthly escrow shortage payment. See Guide Sections 9206.15 and 9205.8.

**Note:** The PITIAS payment must not include MI premiums.

#### Step 2: Calculate the post-modification housing expense-to-income ratio as follows:

Property Type	Calculation
Primary Residence	PITIAS Payment ÷ Monthly Gross Income
Second Home	(PITIAS payment of the subject property + PITIAS payment of the borrower's primary residence) ÷ Monthly Gross Income
Investment Property with Positive or Zero Net Rental Income	PITIAS payment of primary residence ÷ (Monthly gross income + Net rental income)
Investment Property with Negative Net Rental Income	(PITIAS payment of primary residence + Negative net rental income) ÷ Monthly Gross Income

### Property Valuation Requirements for Flex Modifications

You must obtain a property valuation for each mortgage you consider for a Flex Modification. The property valuation must be less than 90 days old on the date you evaluate the borrower for the modification. Use the value you obtain to determine the MTMLTV ratio. If the mortgage is covered by mortgage insurance, you must ensure that the property value you obtain is based on a property valuation type that is consistent with the MI's requirements.

**Note:** If you previously obtained a Freddie Mac compliant property valuation (e.g., Freddie Mac-provided Broker's Price Opinion (BPO), Freddie Mac-provided appraisal, or an appraisal in compliance with Guide Chapter 5601), you are not required to obtain a new property valuation and may use the Freddie Mac compliant property valuation if it is less than 90 days old on the date you evaluate the borrower for a loan modification.

If the mortgage is secured by:	Then:
<p>A 1- or 2-unit dwelling (excluding manufactured housing, a dwelling subject to a leasehold estate or a cooperative unit)</p>	<p>You may choose one of the following options:</p> <p><b>Option One: Home Value Explorer® (HVE®)</b></p> <ul style="list-style-type: none"> <li>▪ The HVE point value estimate must be obtained through one of Freddie Mac's distributors.</li> <li>▪ You may use the HVE point value estimate provided it has a Forecast Standard Deviation that is no greater than 0.20, which corresponds to a Confidence Level of "H" (high) or "M" (medium).</li> <li>▪ Detailed information about HVE and Freddie Mac's distributors is available at <a href="http://www.FreddieMac.com/hve/hve.html">http://www.FreddieMac.com/hve/hve.html</a>.</li> </ul> <p><b>Option Two: Automated Valuation Model (AVM)</b></p> <ul style="list-style-type: none"> <li>▪ Freddie Mac's BPOdirect® website</li> </ul> <p>When an automated value is displayed in the BPOdirect "Auto Value" field, you may use that automated value in accordance with Guide Section 9202.17. Detailed information about BPOdirect is available at <a href="https://bpodirect.com">https://bpodirect.com</a>.</p> <li>▪ Freddie Mac's AVM Report</li> <p>The AVM report is limited to mortgages that are more than 30 days delinquent.</p> <p>When an automated value is displayed in the "Current AVM Value" field in the report provided by Freddie Mac at <a href="http://www.freddiemac.com/singlefamily/service/mha_modification.html">http://www.freddiemac.com/singlefamily/service/mha_modification.html</a>, you may use that automated value. You may access the AVM report using your Mortgage Servicing products user ID and password. This report will be updated by the last Friday of each month.</p>
<p>A 3- or 4-unit dwelling, a manufactured home, a dwelling subject to a leasehold estate or a cooperative unit</p> <p style="text-align: center;">-OR-</p> <p>A 1- or 2-unit dwelling and an HVE point value estimate or automated value is not available or does not meet the requirements in Option One or Option Two above</p>	<p>Then you <b>must</b>:</p> <p>Order a BPO/property valuation through Freddie Mac's BPOdirect website at <a href="https://www.bpodirect.com">https://www.bpodirect.com</a> in accordance with Guide Section 9202.17.</p> <p><b>Note:</b> Consistent with the requirement in Guide Section 8101.1 to act in the most timely, efficient and responsible manner to protect Freddie Mac's interests, you may not order a BPO through BPOdirect for a 1- or 2-unit dwelling if you are permitted to use an available HVE point value estimate or automated value in accordance with the requirements of Option One or Option Two above.</p>

### Examples of Calculations for Flex Modifications

This section outlines examples of calculations for Flex Modifications including examples with and without forbearance. The steps identified in the examples below correspond to the specific steps outlined in the procedures on pages 6 through 11 in this reference guide.

In all examples, assume the fixed rate published on the Freddie Mac Flex Modification Interest Rate Web page in effect on the date of the borrower's evaluation is 4.250 percent. As a reminder, you can obtain the current Freddie Mac Flex Modification Interest Rate at: [www.FreddieMac.com/singlefamily/service/standardmodrate.html](http://www.FreddieMac.com/singlefamily/service/standardmodrate.html).

**Example 1 – Post-Modification MTMLTV Ratio Equal to or Greater than 80 Percent and Mortgage is 90 Days or More Delinquent**

- Gross UPB (interest bearing + any applicable non-interest bearing) before capitalization: \$160,000
- Property value: \$180,000
- Current P&I Payment: \$1,080.12
- Taxes: \$100.00
- Insurance: \$50.00
- Homeowner Association Fees: \$25.00
- Escrow Shortage: \$0.00
- Borrower's gross monthly income: \$2,800.00
- Primary Residence
- Interest Arrearage: \$8,200
- Tax Advance: \$1,800
- Fixed-rate Mortgage
- Current Interest Rate: 4.5 percent

**Step 1: Capitalize known and estimated arrearages.**

<p>\$ 8,200 (interest)</p> <p><u>\$ 1,800</u> (tax advance)</p> <p>\$10,000 Total Capitalization</p>	<p>\$160,000 (gross UPB before capitalization)</p> <p><u>+ \$ 10,000 (Total Capitalization)</u></p> <p>\$170,000 = Estimated Post-modification Gross UPB</p>
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**Step 2: Calculate the post-modified (post-capitalized) MTMLTV ratio.**

$(\$160,000 + \$10,000) \div \$180,000 = 94.4\%$  Post-modified MTMLTV Ratio

**Step 3: Determine the interest rate you will use to calculate the Trial Period Plan payment and the terms of the modification agreement.**

The post-modification MTMLTV ratio is equal to or greater than 80 percent and the mortgage is a fixed-rate mortgage. Therefore, use the fixed-rate published on the Flex Modification Interest Rate Web page in effect on the date of the borrower's evaluation, as it is less than the pre-modification interest rate of 4.5 percent.

**Step 4: Extend the amortization term to 480 months from the modification effective date.**

**Step 5: This step is not applicable. You cannot forbear principal under this step, as the post-modification MTMLTV ratio is equal to or less than 100 percent.**

**Step 6: Calculate the estimated modified P&I payment.**

Using the estimated post-modification gross UPB of \$170,000, calculated in step 2, a 4.25 percent fixed interest rate, and a new amortization term of 480 months, the estimated modified P&I payment is **\$737.15** – a payment savings of \$342.97 or 31.8 percent. The pre- and post-modification P&I amounts used here do not include escrow amounts.

**Step 7: Answer the following questions:**

- **Is the estimated modified P&I payment at least 20 percent less than the current P&I payment?**

Yes. The estimated modified P&I payment of \$737.15 is at least 20 percent less than the current P&I payment of \$1,080.12.

- **Is the post-modification housing expense-to-income (PMHTI) ratio equal to or less than 40 percent?**

This determination is not applicable, as the mortgage is 90 days or more delinquent.

You may proceed to offering the Trial Period Plan. The Trial Period Plan payment is \$887.15, which includes \$150 for escrowed taxes and insurance provided applicable law permits establishment of an escrow account, and a \$737.15 partial payment of P&I. The \$737.15 should be placed in a suspense account until the second Trial Period Plan payment is made, at which time a full monthly P&I payment should be applied and any remaining amount placed in a suspense account pending receipt of the third Trial Period Plan payment. **Note:** Homeowner association fees are not escrowed.

**Example 2 – Post-Modification MTMLTV Ratio Equal to or Greater than 80 Percent and Mortgage is Less than 90 Days Delinquent**

- Gross UPB (interest bearing + any applicable non-interest bearing) before capitalization: \$190,000
- Property Value: \$220,000
- Current P&I Payment: \$1,147.84
- Taxes: \$100.00
- Insurance: \$50.00
- Homeowner Association Fees: \$25.00
- Escrow Shortage: \$0.00
- Borrower's Gross Monthly Income: \$2,800.00
- Primary Residence
- Interest Arrearage: \$3,000
- Tax Advance: \$2,000
- Fixed-rate Mortgage
- Current Interest Rate: 5.125 percent
- Remaining Term: 288 months

**Step 1: Capitalize known and estimated arrearages.**

\$ 3,000 (interest)	\$190,000 (gross UPB before capitalization)
<u>\$ 2,000 (tax advance)</u>	<u>+ \$ 5,000 (Total Capitalization)</u>
\$5,000 Total Capitalization	\$195,000 = Estimated Post-modification Gross UPB

**Step 2: Calculate the post-modified (post-capitalized) MTMLTV ratio.**

$(\$190,000 + \$5,000) \div \$220,000 = 88.63\%$  Post-modified MTMLTV Ratio

**Step 3: Determine the interest rate you will use to calculate the Trial Period Plan payment.**

The post-modification MTMLTV ratio is greater than 80 percent, and the mortgage is a fixed-rate mortgage. Therefore, use the fixed-rate published on the Flex Modification Interest Rate Web page in effect on the date of the borrower's evaluation, as it is less than the pre-modification interest rate of 5.125 percent.

**Step 4: Extend the amortization term to 480 months.**

**Step 5: This step is not applicable. You cannot forbear principal under this step, as the post-modification MTMLTV ratio is equal to or less than 100 percent.**

**Step 6: Calculate the estimated modified P&I payment.**

Using the estimated post-modification gross UPB of \$195,000, calculated in step 2, a 4.25 percent fixed interest rate, and a new amortization term of 480 months, the estimated modified P&I payment is **\$845.56** – a P&I payment savings of \$302.28 or 26.33 percent. The pre- and post-modification P&I amounts used here do not include escrow amounts.

**Step 7: Answer the following questions:**

- **Is the estimated modified P&I payment at least 20 percent less than the current P&I payment?**

Yes. The estimated modified P&I payment of \$845.56 is at least 20 percent less than the current P&I payment of \$1,147.84.

- **Is the post-modification housing expense-to-income ratio equal to or less than 40 percent?**

Post-modification housing expense-to-income ratio = PITIAS ÷ Borrower's gross monthly income

Calculate the PITIAS:

Estimated P&I	\$ 845.56
+ Taxes	\$ 100.00
+ Insurance	\$ 50.00
+ Homeowner Association Fees	\$ 25.00
+ Escrow Shortage	<u>\$ 0.00</u>
<b>Post-Modification PITIAS</b>	<b>\$1,020.56</b>



$\$1,020.56$  (PITIAS)  $\div$   $2,800$  (borrower's gross monthly income) = 36.44% Post-modification housing expense-to-income ratio

Yes. The post-modification housing expense-to-income ratio is 36.44 percent which is less than or equal to 40 percent.

You may proceed to offering the Trial Period Plan. The Trial Period Plan payment is \$995.56 which includes \$150 for escrowed taxes and insurance provided applicable law permits establishment of an escrow account, and a \$845.56 partial payment of P&I. The \$845.56 should be placed in a suspense account until the second Trial Period Plan payment is made, at which time a full monthly P&I payment should be applied and any remaining amount placed in a suspense account pending receipt of the third Trial Period Plan payment. **Note:** Homeowner association fees are not escrowed.

**Example 3:  
Post-Modification MTMLTV Ratio Greater than 100 Percent  
and Mortgage is Equal to or Greater than 90 Days Delinquent**

- Gross UPB (interest bearing + any applicable non-interest bearing) before capitalization: \$190,000
- Taxes: \$100.00
- Insurance: \$ 50.00
- Homeowner Association Fees: \$25.00
- Escrow Shortage: \$0.00
- Borrower's Gross Monthly Income: \$2,800.00
- Primary Residence
- Fixed-rate Mortgage
- Current Interest Rate:
- Interest Arrearage: \$8,200
- Tax Advance: \$1,800
- Current P&I Payment \$1,169.86
- Current Interest Rate: 6.25 percent
- Property Value: = \$150,000

**Step 1: Capitalize known and estimated arrearages.**

\$ 8,200 (interest)	\$190,000 (gross UPB before capitalization)
\$ 1,800 (tax advance)	+ \$ 10,000 (total capitalization)
\$10,000 Total Capitalization	\$200,000 = Estimated Post-modification Gross UPB

**Step 2: Calculate the post-modified (post-capitalized) MTMLTV ratio.**

$(\$190,000 + \$10,000) \div \$150,000 = 133.3\%$  Post-modified MTMLTV Ratio

**Step 3: Determine the interest rate you will use to calculate the Trial Period Plan payment and the terms of the modification agreement.**

The post-modification MTMLTV ratio is greater than 80 percent, and the mortgage is a fixed-rate mortgage. Therefore, use the fixed-rate published on the Flex Modification Interest Rate Web page in effect on the date of the borrower's evaluation, as it is less than the pre-modification interest rate of 6.250 percent.

**Step 4: Extend the amortization term to 480 months from the modification effective date.**

**Step 5: The post-modified (post-capitalized) MTMLTV ratio is greater than 100 percent. Therefore, calculate the following two amounts:**

**A. Forbearance amount to achieve 100 percent post-modified MTMLTV ratio:**

100% x \$150,000 (property valuation) = \$150,000  
 \$200,000 (post-modification gross UPB)  
-150,000  
 \$ 50,000 (forbearance amount A)

**B. Forbearance amount at 30 percent of estimated post-modification gross UPB:**

\$200,000 (estimated post-modification gross UPB)  
x 30%  
 \$ 60,000 (forbearance amount B)

**Choose the lesser of the two amounts:**

In this example, \$50,000 must be forborne, as it is the lesser of the two forbearance amount calculations.

\$200,000 (estimated post-modification gross UPB)  
- 50,000 (forbearance amount A)  
 \$150,000 (estimated post-modification interest-bearing UPB)  
 100% = Post-modification MTMLTV ratio

**Step 6: Calculate the estimated modified P&I payment.**

Using the estimated post-modification gross UPB of \$150,000, calculated in step 2, a 4.25 percent fixed interest rate, and a new amortization term of 480 months, the estimated modified P&I payment is **\$650.43** – a P&I payment savings of \$519.33 or 44.4 percent. The pre- and post-modification P&I amounts used here do not include escrow amounts.

**Step 7: Answer the following questions:**

- **Is the estimated modified P&I payment at least 20 percent less than the current P&I payment?**

Yes, the estimated modified P&I payment of \$650.43 is at least 20 percent less than the current P&I payment of \$1,169.86.

- **Is the post-modification housing expense-to-income (PMHTI) ratio equal to or less than 40 percent?**

This determination is not applicable, as the mortgage is 90 days or more delinquent.

You may proceed to offering the Trial Period Plan. The Trial Period Plan payment is \$800.43 which includes \$150 for escrowed taxes and insurance provided applicable law permits establishment of an escrow account, and a \$650.43 partial payment of P&I. The \$650.43 should be placed in a suspense account until the second Trial Period Plan payment is made, at which time a full monthly P&I payment should be applied and any remaining amount placed in a suspense account pending receipt of the third Trial Period Plan payment. **Note:** Homeowner association fees are not escrowed.

**Example 4:  
Post-Modification MTMLTV Ratio Greater than 100 Percent  
and Mortgage is Less than 90 Days Delinquent**

- Gross UPB (interest bearing + any applicable non-interest bearing) before capitalization: \$190,000
- Taxes: \$100.00
- Insurance: \$ 50.00
- Homeowner Association Fees: \$25.00
- Escrow Shortage: \$0.00
- Borrower's Gross Monthly Income: \$2,800.00
- Primary Residence
- Fixed-rate Mortgage
- Interest Arrearage: \$3,500
- Tax Advance: \$2,000
- Current P&I Payment \$1,169.86
- Current Interest Rate: 6.25 percent
- Property Value: = \$100,000

**Step 1: Capitalize known and estimated arrearages.**

\$ 3,500 (interest)	\$190,000 (gross UPB before capitalization)
\$ 2,000 (tax advance)	+ \$ 5,500 (total capitalization)
\$ 5,500 Total Capitalization	\$195,500 = Estimated Post-modification Gross UPB

**Step 2: Calculate the post-modified (post-capitalized) MTMLTV ratio.**

$(\$190,000 + \$5,000) \div \$100,000 = 195.5\%$  Post-modified MTMLTV Ratio

**Step 3: Determine the interest rate you will use to calculate the Trial Period Plan payment and the terms of the modification agreement.**

The post-modification MTMLTV ratio is greater than 80 percent, and the mortgage is a fixed-rate mortgage. Therefore, use the fixed-rate published on the Flex Modification Interest Rate Web page in effect on the date of the borrower's evaluation, as it is less than the pre-modification interest rate of 6.250 percent.

**Step 4: Extend the amortization term to 480 months from the modification effective date.**

**Step 5: The post-modified (post-capitalized) MTMLTV ratio is greater than 100 percent. Therefore, calculate the following two amounts:**

**C. Forbearance amount to achieve 100 percent post-modified MTMLTV ratio:**

$100\% \times \$100,000$  (property valuation) = \$100,000  
 \$195,500 (post-modification gross UPB)  
 $\underline{-100,000}$   
 \$95,500 (forbearance amount A)

**D. Forbearance amount at 30 percent of estimated post-modification gross UPB:**

\$195,500 (estimated post-modification gross UPB)  
 $\underline{\times 30\%}$   
 \$ 58,650 (forbearance amount B)

**Choose the lesser of the two amounts:**

In this example, \$58,650 must be forborne, as it is the lesser of the two forbearance amount calculations.

\$195,500 (estimated post-modification gross UPB)  
 $\underline{- 58,650}$  (forbearance amount A)  
 \$136,850 (estimated post-modification interest-bearing UPB)  
 $136.85\% =$  Post-modification MTMLTV ratio

**Step 6: Calculate the estimated modified P&I payment.**

Using the estimated post-modification gross UPB of \$136,850, calculated in step 2, a 4.25 percent fixed interest rate, and a new amortization term of 480 months, the estimated modified P&I payment is **\$593.41** – a P&I payment savings of \$576.45 or 49.8 percent. The pre- and post-modification P&I amounts used here do not include escrow amounts.

**Step 7: Answer the following questions:**

- **Is the estimated modified P&I payment at least 20 percent less than the current P&I payment?**

Yes, the estimated modified P&I payment of \$650.43 at least 20 percent less than the current P&I payment of \$1,169.86.

- **Is the post-modification housing expense-to-income ratio equal to or less than 40 percent?**

Post-modification housing expense-to-income ratio = PITIAS ÷ Borrower's gross monthly income

Calculate the PITIAS payment:

Estimated P&I	\$593.41
+ Taxes	\$100.00
+ Insurance	\$ 50.00
+ HOA Fees	\$ 25.00
+ Escrow Shortage	<u>\$ 0.00</u>

**Post-modification PITIAS \$768.41**

Post-modification housing expense-to-income ratio:

$\$768.41 \text{ (PITIAS)} \div 2,800 \text{ (borrower's gross monthly income)} = 27.4432 \text{ percent}$

The post-modification housing expense-to-income ratio of 27.4432 percent is equal to or less than 40 percent.

You may proceed to offering the Trial Period Plan. The Trial Period Plan payment is \$743.41 which includes \$150 for escrowed taxes and insurance provided applicable law permits establishment of an escrow account, and a \$593.41 partial payment of P&I. The \$593.41 should be placed in a suspense account until the second Trial Period Plan payment is made, at which time a full monthly P&I payment should be applied and any remaining amount placed in a suspense account pending receipt of the third Trial Period Plan payment. **Note:** Homeowner association fees are not escrowed.

**Example 5 – Post-Modification MTMLTV Ratio Less than 80 Percent**

- Gross UPB (interest bearing + any applicable non-interest bearing) before capitalization: \$190,000
- Property Value: \$270,000
- Current P&I Payment: \$1,147.84
- Taxes: \$100.00
- Insurance: \$50.00
- Homeowner Association Fees: \$25.00
- Escrow Shortage: \$0.00
- Borrower’s Gross Monthly Income: \$2,800.00
- Primary Residence
- Interest Arrearage: \$8,200
- Tax Advance: \$1,800
- Fixed-rate Mortgage
- Current Interest Rate: 5.125 percent
- Remaining Term: 288 months

**Step 1: Capitalize known and estimated arrearages.**

<p>\$ 8,200 (interest)</p> <p><u>\$ 1,800 (tax advance)</u></p> <p>\$10,000 Total Capitalization</p>	<p>\$190,000 (gross UPB before capitalization)</p> <p><u>+ \$ 10,000 (Total Capitalization)</u></p> <p>\$200,000 = Estimated Post-modification Gross UPB</p>
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**Step 2: Calculate the post-modified (post-capitalized) MTMLTV ratio.**

$(\$190,000 + \$10,000) \div \$270,000 = 74.1\%$  Post-modified MTMLTV Ratio

74.1 percent is less than 80 percent; therefore, the mortgage is not eligible for forbearance.

**Step 3: Determine the interest rate you will use to calculate the Trial Period Plan payment.**

The post-modification MTMLTV ratio is less than 80 percent, and the mortgage is a fixed-rate mortgage. Therefore, you must use the existing interest rate on the mortgage to calculate the Trial Period Plan payment and establish the terms of the permanent modification. For this example, we will use a 5.125 percent fixed-rate.

**Step 4: Extend the amortization term to 480 months.**

**Step 5: Calculate the estimated modified P&I payment.**

Using the estimated post-modification gross UPB of \$200,000, calculated in step 2, a 5.125 percent fixed interest rate, and a new amortization term of 480 months, the estimated modified P&I payment is **\$981.01** – a P&I payment savings of \$166.83 or 14.5 percent. The pre- and post-modification P&I amounts used here do not include escrow amounts.

You may proceed to offering the Trial Period Plan. The Trial Period Plan payment is \$1,131.01 which includes \$150 for escrowed taxes and insurance provided applicable law permits establishment of an escrow account, and a \$981.01 partial payment of P&I. The \$981.01 should be placed in a suspense account until the second Trial Period Plan payment is made, at which time a full monthly P&I payment should be applied and any remaining amount placed in a suspense account pending receipt of the third Trial Period Plan payment. **Note:** Homeowner association fees are not escrowed.

**Trial Period**

Eligible borrowers are required to successfully complete a three-month trial period prior to closing the modification to demonstrate their ability and willingness to sustain the modified payment amount. If a borrower defaults during the trial period or fails to sign the required modification agreements, the borrower is no longer eligible to be modified.

For borrowers in bankruptcy, you may extend the Trial Period Plan as necessary to accommodate delays in obtaining court approvals or receiving a full remittance of the borrower's trial period payments when they are made to a trustee, but you must not extend the trial period beyond nine months, resulting in a total 12-month trial period.

You may use an interim month at the end of the Trial Period Plan for processing; however, no payment is required during the interim month.

Refer to Guide Section 9206.11 for requirements related to the Flex Modification trial period.

**Flex Modification Trial Period Plan Notice**

You must send the borrower a borrower evaluation notice relaying your decision within five days of the evaluation decision but no later than 30 days of receipt of a complete Borrower Response Package. If the borrower is approved for a Flex Modification, you must send a Standard Modification Trial Period Plan Notice, after amending it, as necessary, to conform to the Flex Modification program terms. A model letter is available in Guide Exhibit 93, *Evaluation Model Clauses*, or you may use your own proprietary Trial Period Plan notice provided it reflects the same level of specificity.

**Flex Modification Trial Period Plan Notice for Streamlined Eligibility**

If a borrower is approved for a streamlined offer for a Flex Modification, you must send the borrower a Streamlined Modification Trial Period Plan Notice with *Exhibit 1191, Streamlined Modification Solicitation Letter*, or *Exhibit 1191B, Streamlined Modification Solicitation Letter for Day 60 Rate Reset*, as applicable, in accordance with the requirements described in Guide Section 9102.5(a). You must amend the documents, as applicable, to conform to the Flex Modification program terms.

If the borrower is approved for a streamlined offer for a Flex Modification due to an Eligible Disaster in accordance with the requirements of Section 9206.5(e), the Servicer must send the Borrower the Streamlined Modification Trial Period Plan Notice, amended as set forth in Exhibit 93 for Eligible Disasters, and Exhibit 1191A, *Streamlined Modification Post-Disaster Forbearance Solicitation Letter*. You must amend the Streamlined Modification Trial Period Plan Notice for Eligible Disasters and Exhibit 1191A to conform to the Flex Modification program terms.

**Determining the Effective Date and Due Date of the Trial Period Plan**

Determine the Trial Period Plan effective date and the due date of the first Trial Period Plan payment as follows:

Borrower Trial Period Plan Evaluation Notice Send Date	Trial Plan Effective Date	Trial Plan Due Date of First Trial Payment
On or before 15 <sup>th</sup> of the month	First day of the next month	First day of the next month
After the 15 <sup>th</sup> of the month	First day of the month after the next month	First day of the month after the next month

If after sending the Trial Period Plan notice the borrower agrees to begin the trial period earlier than the effective date requirements stated in the table above, you may begin the trial period on the first day of the next month.

**Bankruptcy**

Borrowers in a trial period plan who subsequently file for bankruptcy may not be denied a modification on the basis of the bankruptcy filing. You and your counsel must:

- Work with borrower and borrower's counsel to obtain court and/or trustee approvals required in accordance with local court rules and procedures.
- Extend the Trial Period Plan as necessary to accommodate delays in obtaining court approvals or receiving a full remittance of the borrower's trial period payments when they are made to a trustee, but you must not extend the trial period beyond nine months, resulting in a total 12-month trial period.

- Notify the borrower if a trial extension is permitted. The borrower must make trial period payments for each month of the trial period, including any extension month in order to remain eligible for a modification.

**Chapter 13**

If a borrower is in an active Chapter 13 bankruptcy and has made post-petition payments on the mortgage in the amount required by the Trial Period Plan, you should not:

- Object to confirmation of borrower’s Chapter 13 plan, or
- Move for relief from automatic bankruptcy stay, or
- Move for dismissal of a Chapter 13 case

**Chapter 7**

Borrowers who have received a Chapter 7 bankruptcy discharge in a case involving the mortgage and who did not reaffirm the mortgage debt under applicable law are eligible for the Flex Modification.

Modification is contingent on the bankruptcy court’s approval of the modification and release of the mortgage from the bankruptcy plan prior to the due date of the first modified mortgage payment. You should modify the Trial Period Plan notice accordingly to reflect the fact that a borrower’s eligibility for a modification is conditioned on court and/or trustee approval to remove the mortgage from the bankruptcy prior to modification.

**Servicing Technology and Reporting**

Until Workout Prospector is updated, you must generate the modification terms using your proprietary systems and report the Flex Modification Trial Period Plan via EDR as outlined below. Once Workout Prospector has been updated, you must submit data relating to Flex Modification Trial Period Plans that were processed through your proprietary systems to us via Workout Prospector.

It is important that you report Trial Period Plan activity accurately and timely via EDR. Accurate and timely Trial Period Plan reporting in accordance with the requirements outlined in the Guide is imperative to many servicing-related activities, including, but not limited to, eligibility for workout compensation and effective foreclosure timeline management. Exhibit 82, *EDR Transmission Code List*, includes default action codes. Use the table below to identify what default action codes you are required to report by the third business day of each month for the previous month’s activity. For additional information, refer to the *EDR Quick Reference Guide*.

EDR Code	When to Report	Report code and the following:
H4: Solicitation Letter Sent	Was sent a solicitation letter.	The date you sent the letter one time in the month following the month the event took place.
H5: Complete Borrower Response Package Received	Sent and you received a Complete Borrower Response Package.	The date you received the complete Borrower Response Package, one time, in the month following when the event took place.
HD: Modification in Review	Is being evaluated for the Flex Modification.	The date you begin reviewing the loan, one time, in the month following the month the event took place.
HE: Ineligible/Cancel Modification	Is ineligible for a Flex Modification.	The date you made the decision, one time, in the month following the month the event took place.
BF: Standard Modification Trial Period	Has entered into a trial period for a Flex Modification.	The trial period start date each month during the trial period and any interim month. <b>Note:</b> Do not report default action code 09 (Forbearance) with this code.

If an interim month is used, report default action code **BF** and the trial period plan effective date as the default action date until the default action codes no longer apply once the mortgage is modified.



When reporting default action code 20 (Reinstatement), the reinstatement action date should be after the trial period end date. For example, if the trial period end date is 3/31/2015, the full reinstatement action date should be 4/1/2015.

If the borrower fails the Trial Period Plan, report any initiated or resumed foreclosure activity via EDR.

**Completing the Trial Period**

Once the trial period has completed successfully, ensure the modified mortgage complies with the conditions outlined in Guide Section 9206.12. Loan settlement guidelines for expenses, delinquent amounts and capitalization rules are located in Guide Sections 9206.15 and 9206.16. Submit the modification for settlement via the Loan Modification Settlement screen in Workout Prospector once the workout is complete.

**Determining the Final Modification Terms**

As you prepare the final modification agreement, you must adjust the terms of the mortgage by completing the steps outlined below. A borrower who successfully completes a Trial Period Plan may not be denied a modification due to changes in the amount of capitalization. Reasonable changes in capitalization amounts between what was estimated at the time of evaluation for a Trial Period Plan and the final modification terms are permitted.

The final terms of the modified mortgage must be a fixed interest rate, fully amortizing mortgage with the same interest rate used for calculating the Trial Period Plan payment.

Follow the requirements in Guide Section 9206.18 to complete the processing of the modification.

**Mortgages with a Post-Modification MTMLTV Ratio Equal to or Greater than 80 Percent**

Perform the following steps to determine the final terms of the modification:

1. Capitalize arrearages per the requirements of Guide Section 9206.15 to arrive at the post-modification gross UPB.
2. Verify the interest rate. The interest rate that is used for the final modification must be the same interest rate used for the Trial Period Plan.
3. Extend the amortization term to 480 months from the modification effective date.
4. Verify the forbearance amount:

If the post-modification MTMLTV is:	Then you must:
Greater than 100 percent	Forbear principal until the earlier point at which: <ul style="list-style-type: none"> <li>▪ A post-modification interest bearing MTMLTV ratio of 100 percent is achieved, or</li> <li>▪ 30 percent of the post-capitalized UPB (the “forbearance cap”) is achieved.</li> </ul> <p><b>Note:</b> Interest may not accrue on the forborne (or deferred) principal. Deferred principal is payable upon maturity of the loan modification, sale or transfer of the property, refinance of the mortgage, or payoff of the interest-bearing UPB.</p>
Equal to or greater than 80 percent, but less than or equal to 100 percent	Proceed to step 5.

5. Calculate the modified P&I payment.

6. Answer the following questions:

- Is the estimated modified P&I payment at least 20 percent less than the current P&I payment?
- Is the post-modification housing expense-to-income (PMHTI) ratio equal to or less than 40 percent? (Refer to page 11 in this reference guide for information on how to calculate this ratio.)

If:	And:	Then:
<p>The mortgage is less than 90 days delinquent at the time of evaluation</p>	<p>The answers to both questions are "yes", you <u>did</u> achieve a minimum 20 percent payment reduction and a PMHTI 40 percent</p>	<p>Offer the modification to the borrower.</p>
	<p>The answer to one or both questions is "no" because you <u>did not</u> achieve a minimum 20 percent payment reduction <u>and/or</u> a PMHTI ratio equal to or less than 40 percent</p>	<p>You must continue to forbear principal, in \$100 increments, until one of the following occurs first:</p> <ul style="list-style-type: none"> <li>▪ A 20 percent P&amp;I payment reduction <u>and</u> a PMHTI ratio equal to or just below 40 percent are both achieved, or</li> <li>▪ A MTMLTV ratio as close as possible to, but not below 80 percent is achieved, or</li> <li>▪ The aggregate forbearance amount equals or is no less than \$100 below the forbearance cap.</li> </ul> <p>If you reach the forbearance cap or 80 percent MTMLTV ratio first, you must offer the modification to the borrower with the maximum permitted forbearance amount provided that the modification still results in a P&amp;I payment that is less than or equal to the borrower's pre-modification P&amp;I payment. In this case, neither the 20 percent payment reduction nor the 40 percent PMHTI ratio must be obtained.</p>
<p>The mortgage is 90 days or more delinquent at the time of evaluation</p>	<p>The answer to the first question is "yes", you <u>did</u> achieve a minimum 20 percent payment reduction</p>	<p>Offer the modification to the borrower.</p>
	<p>The answer to the second question is "no", you <u>did not</u> achieve a minimum 20 percent payment reduction</p>	<p>You must continue to forbear principal, in \$100 increments, until whichever of the following occurs first:</p> <ul style="list-style-type: none"> <li>▪ A 20 percent P&amp;I payment reduction is achieved, or</li> <li>▪ An MTMLTV ratio as close as possible to, but not below 80 percent is achieved, or</li> <li>▪ The aggregate forbearance amount equals or is no less than \$100 below the forbearance cap.</li> </ul> <p>If you reach the forbearance cap or 80 percent MTMLTV ratio first, you must offer the modification to the borrower with the maximum permitted forbearance amount provided that the modification still results in a P&amp;I payment that is less than or equal to the borrower's pre-modification P&amp;I payment. In this case, you do not have to achieve a 20 percent payment reduction.</p>

6. Prepare a modification agreement to reflect the terms calculated in the steps above and the requirements of Guide Section 9206.16.

**Mortgages with a Post-Modification MTMLTV Ratio Less than 80 Percent**

Perform the following steps to determine the final terms of the modification:

1. Capitalize arrearages per the requirements of Guide Section 9206.15 to arrive at the post-modification gross UPB.
2. Verify the interest rate. The interest rate that is used for the final modification must be the same interest rate used for the Trial Period Plan.
3. Extend the amortization term to 480 months from the modification effective date.
4. Calculate the estimated monthly P&I payment.
5. Prepare a modification agreement to reflect the terms calculated in the steps above and the requirements of Guide Section 9206.16.

**Servicer Incentive Payment**

You will receive incentives for successfully settled Flex Modifications based on the borrower's delinquency at the time of the Trial Period Plan effective date.

Servicer Incentive Payments for Flex Modifications		
Days Delinquent – OR – Days from DDLPI		Each settled Flex Modification receives
Less than or equal to 120	150	\$1600.00
121-210	151-240	\$1200.00
Greater than 210	Greater than 240	\$400.00

To receive compensation, you must successfully settle a Flex Modification by complying with all eligibility, underwriting, documentation, closing, and reporting requirements, including submitting accurate closing data to Freddie Mac, within two months after the trial period ends. Please note that the use of an interim month does not extend this two-month settlement requirement as an interim month is not part of the trial period.

### Ineligible Incentive Payment Warnings

It is important to report your Flex Modification data accurately, consistently and within specified time requirements. Failure to do so will cause your status to be ineligible for a compensation incentive.

This section highlights actions to avoid when reporting Flex Modification data through Workout Prospector and EDR. You will receive the error messages in Incentive Manager<sup>SM</sup>. Once you receive these messages in Incentive Manager, it is too late to take action to reverse your ineligible compensation status.

Error Message	Explanation												
Trial Period Data Mismatch	<ol style="list-style-type: none"> <li>The Flex Modification data has been submitted for settlement in Workout Prospector, but the trial period date has not been reported through EDR.</li> <li>The Flex Modification Trial Period start date in Workout Prospector does not match trial period data reported through EDR.</li> </ol>												
Trial Period not reported in current cycle	<p>The trial period start date was not reported in the current cycle. The month of the servicing cycle when the Flex Modification is reported is not the same as the month of the trial period start date the first time default action code <b>BF</b> is reported.</p> <p>Example:</p> <table border="1"> <thead> <tr> <th>Loan Number</th> <th>Servicing Cycle</th> <th>Trial Period Start Date</th> <th>Compensation Eligibility</th> </tr> </thead> <tbody> <tr> <td>111111111</td> <td>11/30/2014</td> <td>11/01/2014</td> <td>Eligible</td> </tr> <tr> <td>222222222</td> <td>11/30/2014</td> <td>10/01/2014</td> <td>Not Eligible</td> </tr> </tbody> </table>	Loan Number	Servicing Cycle	Trial Period Start Date	Compensation Eligibility	111111111	11/30/2014	11/01/2014	Eligible	222222222	11/30/2014	10/01/2014	Not Eligible
Loan Number	Servicing Cycle	Trial Period Start Date	Compensation Eligibility										
111111111	11/30/2014	11/01/2014	Eligible										
222222222	11/30/2014	10/01/2014	Not Eligible										
Servicer Inaccurate/Inconsistent Reporting	The Flex Modification Trial Period start date in subsequent EDR cycles was updated more than once. This was completed through a manual process.												
Servicer Inaccurate/Inconsistent Reporting	The Flex Modification Trial Period start date in subsequent EDR cycles was back-dated. This was completed through a manual process.												
Servicer Inaccurate/Inconsistent Reporting	The same Flex Modification Trial Period start date was not reported for three consecutive months via EDR.												
Servicer Data Error/Delays	<p>The Flex Modification settlement data in Workout Prospector was reported within two months from the EDR trial period end date <b>but</b> the workout did not settle due to failed loan modification edits.</p> <p>You reported default action code 20 (Reinstatement) with an action date prior to the third trial period payment.</p>												
Loan Exceeds Compensation Limit	The Flex Modification Trial Period completed successfully and the modification settled; however, this loan already had two prior modification incentive payments paid. The incentive payment for the third modification will not be paid.												

The information contained in this document is not a substitute for the information found in the Freddie Mac Single-Family Seller Servicer Guide and/or the terms of your Master Agreement and/or Master Commitment and/or other Purchase Documents.

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TO: Freddie Mac Servicers

December 14, 2016 | 2016-22

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## SUBJECT: FREDDIE MAC FLEX MODIFICATION

This Guide Bulletin announces the Freddie Mac Flex Modification. We are implementing this modification jointly with Fannie Mae at the direction of the FHFA to adapt to the improving housing environment while preserving the most effective aspects of our crisis era loan modification programs. The Flex Modification is designed as an affordable modification which will provide significant payment reduction for eligible Borrowers, while maximizing operational simplicity and ease of implementation for our Servicers. It will also provide a cost-effective way for Freddie Mac to avoid unnecessary foreclosures.

On and after October 1, 2017, this new modification will replace the current Freddie Mac Standard and Streamlined Modifications. Upon notification that Freddie Mac's systems have been updated to process and settle Flex Modifications (as described below), Servicers may implement this new modification prior to October 1, 2017. Prior to this notification, Servicers must continue to offer the existing Standard and Streamlined Modifications to eligible Borrowers.

This Bulletin describes the requirements for the Flex Modification, including the [eligibility requirements and exclusions](#), [modification terms](#), [requirements for an offer for a Flex Modification](#) and [evaluation hierarchy](#).

## SERVICER IMPLEMENTATION

### Mandatory implementation

Servicers must begin Borrower evaluations for the Flex Modification using the criteria provided in the Guide no later than **October 1, 2017**. Refer to the [Eligibility Requirements and Exclusions](#) and [Determining the Terms of the Flex Modification](#) tables of this Bulletin for details on the criteria.

### Early implementation

Prior to October 1, 2017, Freddie Mac's systems, including Workout Prospector® and EDR, will be updated to process, settle and report Flex Modifications. We will notify Servicers in a future Bulletin when those updates will take effect. Servicers are not permitted to implement the Flex Modification until the systems are updated.

### Expiration of the Freddie Mac Standard and Streamlined Modifications

Once a Servicer begins evaluating Borrowers for the Flex Modification, whether as of the mandatory implementation date or upon early implementation, the Servicer must discontinue evaluations for Standard and Streamlined Modifications.

## ELIGIBILITY REQUIREMENTS AND EXCLUSIONS

The Flex Modification eligibility requirements and exclusions are similar to the requirements for the Standard and Streamlined Modifications, with some minor updates to the eligibility exclusions.

Borrowers being evaluated for the Flex Modification must meet the following requirements:

**Flex Modification Eligibility Requirements and Exclusions**

<p><b>Borrower eligibility</b></p>	<p>The Borrower must:</p> <ul style="list-style-type: none"> <li>• Submit a complete Borrower Response Package, and             <ul style="list-style-type: none"> <li>➢ Have an eligible hardship as described in Guide Section 9202.2. The hardship must currently be causing or be expected to cause a long-term or permanent decrease in the Borrower's income or increase in the Borrower's expenses. NOTE: Unemployment is considered a temporary hardship. Servicers must consider unemployed Borrowers for unemployment forbearance under Sections 9203.22 through 9203.24.</li> <li>➢ Have verified income. Unemployment benefits may not be considered as a source of income for a modification.</li> </ul> </li> <li>• Be 60 days or more delinquent. However, a Borrower who is current or less than 60 days delinquent (i.e., less than three monthly payments past due) <b>and</b> occupies the property as a Primary Residence is also eligible provided the Borrower is first determined to be in imminent default in accordance with Section 9206.7.</li> </ul>
<p><b>Streamlined eligibility for certain Borrowers</b></p>	<p>Certain eligibility exceptions apply for a Borrower who:</p> <ul style="list-style-type: none"> <li>• Is 90 days delinquent or greater; or</li> <li>• Has a Step-Rate Mortgage and the Borrower:             <ul style="list-style-type: none"> <li>➢ Becomes 60 days delinquent within the 12 months following the first payment due date resulting from an interest rate adjustment; and</li> <li>➢ Has not submitted a complete Borrower Response Package</li> </ul> </li> </ul> <p>For these Borrowers, the Servicer is not required to adhere to the requirements in the "Borrower eligibility" row above. In these instances, a Borrower Response Package is not required, and the Servicer is not required to confirm a Borrower's hardship or income. The Servicer must continue to comply with the requirements in the "Mortgage eligibility" and "Eligibility exclusions" rows below to determine eligibility.</p> <p>NOTE: Additional solicitation requirements may also be applicable to this population of Borrowers. Refer to the <u>Streamlined Offer for a Flex Modification</u> section of this Bulletin.</p>
<p><b>Mortgage eligibility</b></p>	<p>The Mortgage must:</p> <ul style="list-style-type: none"> <li>• Have been originated at least 12 months prior to the evaluation date for the Flex Modification</li> <li>• Be a conventional First Lien Mortgage currently owned or guaranteed in whole or in part by Freddie Mac</li> </ul> <p align="center"><b><i>Principal and interest (P&amp;I) payment reduction</i></b></p> <p>The Flex Modification must result in a P&amp;I payment that is less than or equal to the pre-modification P&amp;I. (Refer to Section 9206.10 for additional payment reduction requirements that may apply.)</p>

## Flex Modification Eligibility Requirements and Exclusions

When determining whether the modification results in a P&I payment that is less than or equal to the pre-modification P&I payment, the Servicer must consider the following:

- If the Borrower has been granted interest rate relief under the Servicemembers Civil Relief Act (SCRA), the Servicer must consider the P&I payment in effect prior to the date the SCRA relief was granted rather than the temporarily reduced monthly payment based on the SCRA interest rate cap
- If the Mortgage being modified is an ARM or an interest-only Mortgage, the Servicer must consider the P&I payment, or interest only payment, as applicable, in effect at the time the Servicer determines eligibility for a Flex Modification Trial Period Plan

### ***Mortgages subject to indemnification agreements***

If the Mortgage is subject to an indemnification agreement and is otherwise eligible under the requirements of Guide Chapter 9206, the Servicer has the discretion to approve the mortgage modification provided the following conditions are met:

- The modified Mortgage retains its credit enhancement
- If the Servicer is not the credit enhancement provider, the Servicer must first obtain in writing any required approval under the terms of the credit enhancement from the entity providing the enhancement to enter into a modification agreement that complies with the requirements of Chapter 9206; and
- The Servicer remits to Freddie Mac an annual payment for the amount of all modification-related costs (e.g., interest rate shortfall) as calculated by Freddie Mac pursuant to Freddie Mac's "Modification Loss Amount" methodology. The Modification Loss Amounts due will be calculated on a monthly basis, and billed on an annual basis for the life of the modified Mortgage. If the Mortgage is subject to a partial indemnification, each year the Servicer will be billed the appropriate percentage of the Modification Loss Amount that corresponds with the partial indemnification agreement. Modification Loss Amounts will be determined by Freddie Mac in accordance with a process described in Bulletin 2016-5.

NOTE: Pursuant to Section 9204.6, the Servicer is not eligible to receive an incentive for completing a modification on a Mortgage that is subject to an indemnification agreement.

### ***Mortgages secured by leasehold estates***

If the Mortgage is secured by a leasehold estate, the term of the lease (or any exercised option to renew the lease, or any renewal options that are enforceable by the leasehold mortgagee, whichever is applicable) must not terminate earlier than five years after the maturity date of the proposed modified Mortgage. In the event that the current term of the lease (or applicable renewal options) terminates earlier than five years after the maturity date of the proposed modified Mortgage, the term of the lease must be renegotiated in

Flex Modification Eligibility Requirements and Exclusions	
	order to satisfy this requirement prior to offering the Borrower a Trial Period Plan.
<b>Eligibility exclusions</b>	<p>The following Mortgages and Borrowers are ineligible for the Flex Modification:</p> <ul style="list-style-type: none"> <li>• FHA, VA and Guaranteed Rural Housing Mortgages</li> <li>• Mortgages subject to recourse</li> <li>• Mortgages secured by second homes or non-owner occupied properties (i.e., Investment Properties) where the Borrower is current or less than 60 days delinquent</li> <li>• Mortgages that have been previously modified three or more times</li> <li>• Mortgages previously modified with the Flex Modification terms determined in accordance with Section 9206.10(a) where: <ul style="list-style-type: none"> <li>➢ The Mortgage became 60 or more days delinquent within 12 months of the Modification Effective Date, and</li> <li>➢ The Borrower has not brought the Mortgage current following the Delinquency</li> </ul> </li> <li>• Borrowers who, within 12 months of the evaluation date, failed a Flex Modification Trial Period Plan and the terms of that Trial Period Plan were determined in accordance with Section 9206.10(a)</li> <li>• Mortgages that are subject to an approved short sale or deed-in-lieu of foreclosure transaction</li> <li>• Borrowers who are currently performing under another Trial Period Plan, forbearance plan or repayment plan</li> <li>• Mortgages that are currently subject to an unexpired offer to the Borrower for another modification or other alternative to foreclosure, such as a forbearance or repayment plan</li> </ul>

**DETERMINING THE TERMS OF THE FLEX MODIFICATION**

Servicers must use different modification terms for the Flex Modification than those used to determine the Standard Modification. The terms for the Flex Modification are described below:

Determining Flex Modification Terms	
<b>Post-modification MTMLTV ratio ≥ 80%</b>	<p>The Servicer must complete all four steps below:</p> <p>Step 1: Capitalize arrearages in accordance with Section 9206.15</p> <p>Step 2: Set the interest rate to the applicable rate for the Mortgage type. For Borrowers with:</p>



## Determining Flex Modification Terms

- Fixed-rate Mortgages (including Step-Rate Mortgages or ARMs with no subsequent steps or adjustments), set the interest rate to the lesser of the Flex Modification rate or the pre-modification interest rate
- Step-Rate Mortgages or ARMs with subsequent steps or adjustments or further steps still remaining, set the interest rate to the lesser of the Flex Modification rate or the maximum step-rate/lifetime cap note rate

Step 3: Extend the amortization term to 480 months from the Modification Effective Date

Step 4: Forbear principal in an aggregate amount that does not exceed the Forbearance Cap to create an MTMLTV ratio as close to, but not below, 100%

### **Additional forbearance for Mortgages that are less than 90 days delinquent**

If the Mortgage is less than 90 days delinquent on the date the Borrower submitted a complete Borrower Response Package and the Servicer did not reach a minimum of 20% P&I payment reduction and a post-modification housing expense-to-income ratio (PMHTI) ratio of 40% or less, as determined in accordance with Section 9206.5(c), the Servicer must continue to forbear principal, subject to the Forbearance Cap, down to no lower than an 80% MTMLTV ratio until a 20% P&I payment reduction and a PMHTI ratio of 40% or just below 40% is achieved.

If the Servicer reaches the Forbearance Cap without achieving a minimum of 20% P&I payment reduction or a PMHTI ratio at or below 40%, the Servicer must provide the offer based on the terms generated, provided that the Borrower is otherwise eligible for the modification.

**Note:** See an exception to PMHTI ratio requirements for a Borrower with a Step-Rate Mortgage who is eligible for a streamlined offer in the Streamlined Offer for a Flex Modification section of this Bulletin.

### **Additional forbearance for Mortgages that are 90 or more days delinquent**

If the Mortgage is 90 or more days past due at the time of evaluation and the Servicer did not achieve a 20% P&I payment reduction, the Servicer must continue to forbear principal, subject to the Forbearance Cap, down to as low as an 80% MTMLTV ratio until a 20% P&I payment reduction is achieved. If the Servicer reaches the Forbearance Cap without achieving a 20% P&I payment reduction, the Servicer must provide the offer based on the terms generated, provided that the Borrower is otherwise eligible for the modification.

Determining Flex Modification Terms	
<p><b>Post-modification MTMLTV ratio &lt; 80%</b></p>	<ul style="list-style-type: none"> <li>• Capitalize the arrearages in accordance with Section 9206.15 and increase the term of the Mortgage to 480 months from the Modification Effective Date</li> <li>• If the Mortgage is an ARM or a Step-Rate Mortgage with subsequent interest rate adjustments remaining, convert the interest rate to the lesser of the maximum step-rate or the Flex Modification rate</li> <li>• If the Mortgage is a Fixed-rate Mortgage (including Step-Rate Mortgages or ARMs with no subsequent adjustments), the interest rate must remain fixed at the existing rate.</li> </ul>

## STREAMLINED OFFER FOR A FLEX MODIFICATION

When a Borrower becomes 90 days delinquent, or when a Borrower with a Step-Rate Mortgage becomes 60 days delinquent within the 12 months following the first payment due date resulting from an interest rate adjustment, the Servicer must determine if the Borrower is eligible for a proactive offer for a streamlined Flex Modification in accordance with Section 9206.5 and, if eligible, solicit the Borrower for that modification in accordance with Section 9102.5(a). Servicers may continue to solicit eligible Borrowers for the Flex Modification at their discretion in accordance with the requirements in Sections 9102.5 and 9201.2.

If the Borrower is approved for a streamlined Flex Modification, the Servicer must send the Borrower a streamlined Flex Modification Trial Period Plan Notice and applicable streamlined Flex Modification solicitation letter in accordance with the requirements described in Section 9102.5(a). If the Borrower is approved for a streamlined Flex Modification due to an Eligible Disaster in accordance with the requirements of Section 9206.5(e), the Servicer must send the Borrower the streamlined Flex Modification Trial Period Plan Notice, as amended for Eligible Disasters, and the streamlined Flex Modification post-disaster forbearance solicitation letter.

The applicable Trial Period Plan Notices and solicitation letters set forth in Guide Exhibits 93, 1191, 1191A and 1191B will be updated to reflect the Flex Modification in a future Bulletin. Until a new letter template has been created for streamlined offers for the Flex Modification, Servicers may use Exhibit 1191, *Streamlined Modification Solicitation Letter*, or Exhibit 1191B, *Streamlined Modification Solicitation Letter for Day 60 Rate Reset*, as applicable, and must amend the applicable letter template as necessary to conform to the Flex Modification terms and applicable Guide requirements.

For a Borrower with a Step-Rate Mortgage only, if the Borrower has submitted a complete Borrower Response Package prior to becoming 90 days delinquent, and has not yet accepted the streamlined offer for a Flex Modification, the Servicer must complete its review of the package for all alternatives to foreclosure in accordance with the Guide. However, if the Borrower has accepted the existing Trial Period Plan offer, the Servicer must determine if the Borrower is eligible for additional payment relief as a result of the PMHTI ratio component of the Flex Modification terms described in Section 9206.10. If the Borrower is eligible for additional payment relief, then the Servicer must permit the Borrower to continue making the existing Trial Period Plan payments, but must update the modification agreement to reflect the lower payment amount. The post-modification P&I must reflect the lower payment amount in these instances.

## EVALUATION HIERARCHY

Prior to Servicer implementation of the Flex Modification, the Servicer must follow the existing loss mitigation evaluation hierarchy as described in Section 9201.2. Once a Servicer has implemented the Flex Modification, it must discontinue evaluating Borrowers for the Standard and Streamlined Modifications, and instead evaluate Borrowers in accordance with the revised evaluation hierarchy:

- The Servicer must consider eligible Borrowers for available refinance options

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- If a reinstatement or relief option as provided in Chapter 9203 is not appropriate based on Borrower circumstances, the Borrower may qualify for a workout option. The Servicer must first consider the Borrower for a Flex Modification in accordance with the requirements of Chapter 9206.
  - If a Borrower is ineligible for, does not accept, or fails to complete the Flex Modification, the Servicer must next consider the Borrower for a short sale pursuant to Chapter 9208
  - If a Borrower is ineligible for a short sale or a short sale is not a viable option, the Servicer must next consider the Borrower for a deed-in-lieu of foreclosure in accordance with the requirements of Chapter 9209

## OTHER REQUIREMENTS

Other requirements for the Flex Modification include:

- **Mortgage insurance:** If the Mortgage is subject to mortgage insurance, the Servicer must obtain approval from the MI for the Flex Modification prior to offering the modification to a Borrower
- **Incentives:** The Servicer will be eligible to receive an incentive payment in accordance with the tiered payment structure described in Exhibit 96, *Servicing Incentives and Compensatory Fees*. The incentive payment structure for Flex Modifications will be the same as it currently is for Standard and Streamlined Modifications.
- **Exception processing:** For situations in which a Borrower does not meet the eligibility requirements for a Flex Modification, and the Servicer believes it to be the best option for addressing the Delinquency, the Servicer may submit a recommendation to Freddie Mac for review via the exception request path in Workout Prospector. Refer to Section 9206.10 for additional information on Workout Prospector.
- **Capitalization and Extension Modification for Disaster Relief ("Disaster Relief Modification"):** The requirements for determining interest rates for the Disaster Relief Modification have also been updated to reflect the updates described in this Bulletin. Refer to Section 9206.4 for additional details.

## REMINDER: FREDDIE MAC MYCITY MODIFICATION, PRINCIPAL REDUCTION MODIFICATION AND HOME AFFORDABLE MODIFICATION PROGRAM EXPIRATIONS

As a reminder, the MyCity Modification, Principal Reduction Modification and Home Affordable Modification Program (HAMP®) expire at the end of 2016.

All MyCity Modification Trial Period Plans must have had a start date of no later than December 1, 2016. All solicitations and notices for the Principal Reduction Modification must be sent on or before December 31, 2016. Borrowers must submit a complete Borrower Response Package no later than December 30, 2016 to be evaluated for HAMP. Servicers must complete such evaluations within 30 days of the Servicer's receipt of the complete Borrower Response Package.

As an additional reminder, in connection with the expiration of HAMP, Servicers no longer have the authority to request government monitoring data under Section 9205.16(b) and must cease collection of such data on and after December 31, 2016. As a result, Freddie Mac is retiring Form 710A, *Government Monitoring Data*, and updating Section 9102.5 to remove reference to the collection of government monitoring data with respect to HAMP eligible Borrowers, effective December 31, 2016.

## ADDITIONAL RESOURCES

We have created a web page on FreddieMac.com for the Flex Modification. We encourage Servicers to visit the [Flex Modification web page](#), which includes a [term sheet](#) for the modification. We also encourage Servicers to visit the [Freddie Mac Learning Center](#) for additional Flex Modification resources, which will be available in the first quarter of 2017.

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## REVISIONS TO THE GUIDE

Sections 9201.2 and 9206.5 through 9206.11 have been revised and contain all requirements for the Flex Modification.

The following have been updated to change references from Freddie Mac Standard and/or Streamlined Modifications to the Flex Modification and remove applicable references to HAMP:

- Sections 8404.6, 9101.2, 9101.3, 9102.5, 9203.22, 9204.2, 9204.6, 9205.4, 9206.2, 9206.4, 9206.12, 9207.2, 9211.1, 9301.46 and 9402.3
- Exhibit 96
- The Glossary definition of "PITIAS Payment"

Additionally, we have:

- Moved the requirements for Streamlined Modifications from Section 9206.3 to Section 9206.5(c), with updates made to reflect the Flex Modification
- Deleted Form 710A and removed reference to the collection of government monitoring data for HAMP eligible Borrowers in Section 9102.5, effective December 31, 2016

### Future revisions

Sections 9206.13 and 9206.16 and Exhibits 82 and 83A will be updated once EDR and Workout Prospector have been updated to reflect the Flex Modification.

Exhibits 93, 1191, 1191A and 1191B will be updated to reflect the Flex Modification prior to the mandatory implementation date.

## CONCLUSION

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call Customer Support at (800) FREDDIE.

Sincerely,



Yvette W. Gilmore  
Vice President  
Servicer Performance Management



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**TO: Freddie Mac Servicers**

February 15, 2017 | 2017-1

**SUBJECT: SERVICING UPDATES**

This Guide Bulletin announces:

**Obtaining and evaluating tax transcripts**

- Revisions to our requirements for obtaining and evaluating tax transcripts

**Mortgage modifications**

- Early implementation requirements for the Freddie Mac Flex Modification<sup>SM</sup>
- Adjustments to the Modification Loss Amount calculation used for the modification of a Mortgage subject to an indemnification agreement as announced in Bulletin 2016-5

**Third-party foreclosure sales**

- Updates to specify Servicer responsibilities related to property preservation and advancement of property taxes and insurance premiums after the purchase of a property by a third party at a foreclosure sale – **April 17, 2017**

**Transfers of Servicing**

- Requiring Servicers to use Electronic Signatures when signing Guide Form 981, Agreement for Subsequent Transfer of Servicing of Single-Family Mortgages, revising our submission requirements for the form and updating the form – **June 1, 2017**

**Additional Guide updates**

- Further updates as described in the Additional Guide Updates section of this Bulletin

**EFFECTIVE DATE**

All of the changes announced in this Bulletin are effective immediately unless otherwise noted.

**OBTAINING AND EVALUATING TAX TRANSCRIPTS**

At the direction of the FHFA, under the Servicing Alignment Initiative (“SAI”) and jointly with Fannie Mae, we are implementing changes to our requirements related to IRS Form 4506T-EZ, *Short Form Request for Individual Tax Return Transcript*, and IRS Form 4506-T, *Request for Transcript of Tax Return*. These changes are being made in response to Servicer feedback and in an effort to provide a more flexible, streamlined process for Borrowers and Servicers.

The changes related to obtaining IRS Form 4506-T-EZ or IRS Form 4506-T, as applicable, and the circumstances in which a tax transcript must be obtained for evaluation are described below:

**IRS Form 4506T-EZ and IRS Form 4506-T Requirements**

Category	Requirements
<p><b>Circumstances in which the IRS Form 4506T-EZ or IRS Form 4506-T is required to be obtained and processed</b></p>	<p><b>Home Affordable Modification Program (HAMP®)</b></p> <p>Servicers must obtain a Borrower executed and completed IRS Form 4506T-EZ or IRS Form 4506-T, as applicable, in accordance with existing HAMP requirements to complete the Borrower Response Package. For evaluations conducted under HAMP, Servicers are reminded that complete Borrower Response Packages must have been submitted by December 30, 2016.</p> <p><b>Circumstances requiring a Borrower tax transcript</b></p> <p>Servicers must obtain and process IRS Form 4506T-EZ or IRS Form 4506-T, as applicable, to obtain a Borrower's tax transcript when:</p> <ul style="list-style-type: none"> <li>• It is necessary to resolve inconsistencies between other information the Borrower provided (e.g., information the Borrower provided in Form 710, <i>Uniform Borrower Assistance Form</i>) and the income documentation;</li> <li>• The Borrower has income that is required to be documented by the Borrower's most-recent federal income tax return but the Borrower has not provided his or her signed federal income tax return, complete with all schedules and forms (i.e., Borrowers who are self-employed or file tax returns on a fiscal year basis).</li> </ul> <p>Note: In this circumstance only, the Servicer must obtain and process IRS Form 4506-T because IRS Form 4506T-EZ cannot be used for self-employed Borrowers or fiscal year filers; or</p> <ul style="list-style-type: none"> <li>• Otherwise requested by Freddie Mac</li> </ul> <p><b>Note:</b> When documenting rental income, Borrowers must submit a completed tax return and Schedule E as a tax transcript does not separately itemize rental income.</p>
<p><b>Borrower Solicitation Package</b></p>	<p>Beginning <b>February 15, 2017</b>, Servicers are authorized to exclude IRS Form 4506T-EZ and IRS Form 4506-T, as applicable, from the Borrower Solicitation Package.</p>
<p><b>Authorized Changes to Form 710</b></p>	<p>Servicers are authorized to edit Form 710:</p> <ul style="list-style-type: none"> <li>• If permitted by applicable law, to exclude references to IRS Form 4506T-EZ and IRS Form 4506-T; or</li> <li>• To the extent required by applicable law, to indicate that such forms may be required and to state the circumstances when the forms are required to complete the application</li> </ul>
<p><b>Borrower Response Package</b></p>	<p>For any Borrower Response Packages submitted to the Servicer on and after <b>February 15, 2017</b>, Freddie Mac will no longer require the IRS Form 4506T-EZ and IRS Form 4506-T, as applicable, to complete the Borrower Response Package, except when required as set forth in the <u>Circumstances requiring a Borrower tax transcript</u> section above.</p>

**IRS Form 4506T-EZ and IRS Form 4506-T Requirements**

Category	Requirements
<p><b>Standard Modification or Flex Modification Trial Period Plan conversion</b></p>	<p>If the Borrower was in a Trial Period Plan prior to entering into an unemployment forbearance plan, the Borrower may be re-evaluated for a new Trial Period Plan upon successful completion of the unemployment forbearance plan. If the Borrower Response Package is more than 90 days old at the time of re-evaluation, the Servicer must obtain an updated package. However, the Servicer is not required to obtain a new IRS Form 4506T-EZ or IRS Form 4506-T, as applicable, or process it except when required as set forth in the <u>Circumstances requiring a Borrower tax transcript</u> section above.</p>
<p><b>Imminent default</b></p>	<p>When evaluating for imminent default, Servicers are no longer required to obtain the Borrower's signed IRS Form 4506T-EZ or IRS Form 4506-T, or a copy of the Borrower's most-recent signed federal tax income return, except when required as set forth in the <u>Circumstances requiring a Borrower tax transcript</u> section above.</p>
<p><b>Calculating and verifying Cash Reserves for short sales and deeds-in-lieu of foreclosure</b></p>	<p>The Servicer must calculate and verify the Borrower's Cash Reserves in accordance with the following requirements:</p> <ol style="list-style-type: none"> <li>1. The Servicer must determine that, for every Borrower on the Mortgage, all of the Borrower's Cash Reserves have been accounted for on Form 710 and verified.</li> <li>2. The Servicer must review all information provided by the Borrower to determine if the asset information stated on Form 710 is reasonably consistent with information available from all other information provided by the Borrower, including required supporting documentation and verbal information shared by the Borrower. If there are inconsistencies between the Borrower's disclosure of assets and the information provided by the Borrower, then the Servicer must obtain the Borrower's tax return or tax transcript in order to reconcile the inconsistencies.</li> <li>3. If upon reviewing the Borrower's tax return or tax transcript, the Servicer observes interest, dividend income or gains/losses that, in total, could not be reasonably produced by the Borrower's disclosed Cash Reserves, and such income indicates deposits, securities holdings or other assets that could be in excess of the amounts disclosed by the Borrower on Form 710, the Servicer must reconcile the inconsistency with the Borrower. If the Servicer used a tax transcript in lieu of a tax return, the Servicer must require the Borrower to produce a signed federal tax return and all relevant schedules, along with any other relevant documentation that verifies the disposition and/or current status of those assets that produced the income or gains/losses, to resolve the inconsistency.</li> </ol> <p>The Servicer must ensure that the Borrower's disclosure of assets is reasonably accurate despite the inconsistency between the disclosed assets and the income or gain/loss from assets reported on the tax return or tax transcript. In determining what documentation is needed to reconcile an inconsistency, the Servicer must review the detailed tax return schedules and forms, and request from the Borrower copies of recent and past statements from those asset holdings or transactions indicated on the schedules and forms that produced the income or</p>

**IRS Form 4506T-EZ and IRS Form 4506-T Requirements**

Category	Requirements
	<p>gain/loss (e.g., checking, savings, brokerage account statements, asset sale statements or records, etc.).</p> <p>4. If there are inconsistencies between the Borrower's disclosure of assets and the tax return information that cannot be reconciled, or the required Cash Reserves documentation cannot be obtained from the Borrower, the Servicer is not delegated to approve the short sale or the deed-in-lieu of foreclosure, as applicable.</p>

Guide impacts: Guide Sections 9101.2, 9102.4, 9102.5, 9202.3, 9206.7, 9208.3 and 9209.3

## **MORTGAGE MODIFICATIONS**

### **Early implementation of the Freddie Mac Flex Modification**

As announced in Bulletin 2016-22, the Flex Modification will replace the current Freddie Mac Standard and Streamlined Modifications for evaluations conducted on and after October 1, 2017.

Effective immediately, Servicers that wish to implement the Flex Modification prior to the mandatory implementation date of October 1, 2017 may begin evaluating Borrowers and generating the terms for a Flex Modification Trial Period Plan and Flex Modification using their proprietary systems.

Workout Prospector® will be updated by May 1, 2017 to process terms and settle the Flex Modification. Once Workout Prospector has been updated, Servicers may use Workout Prospector to generate the terms of Flex Modification Trial Period Plans and modifications or may continue using their proprietary systems to generate the terms. Regardless of how the terms are generated, Servicers must submit data relating to any Flex Modification Trial Period Plans to Freddie Mac via Workout Prospector beginning May 1, 2017.

Once a Borrower has entered into a Flex Modification Trial Period Plan, the Servicer must report the Trial Period Plan to Freddie Mac via EDR using the Standard Modification Trial Period Plan code "BF" whether the Servicer's offer was a streamlined offering or in response to a Borrower request for assistance. Servicers must report this code along with the Trial Period Plan Effective Date each month during the Trial Period.

Guide impacts: Sections 7101.4, 8501.3, 9102.4, 9205.5, 9205.11, 9206.13 and 9206.16, Guide Exhibits 82 and 83A and Form 981

### **Reminders**

As stated in Bulletin 2016-22:

- **Exception processing:** For situations in which a Borrower does not meet the eligibility requirements for a Flex Modification but the Servicer believes it to be the best option for addressing the Delinquency, the Servicer may submit a recommendation to Freddie Mac for review via the Standard Modification exception review path in Workout Prospector. Servicers must include a comment in Workout Prospector stating "Flex Modification exception request" and include the Flex Modification terms. Once the Flex Modification path becomes available in Workout Prospector, Servicers must submit exceptions through the Flex Modification exception review path.
- **Borrower evaluations:** Once a Servicer begins to evaluate Borrowers for the Flex Modification, the Servicer must discontinue evaluations for Standard and Streamlined Modifications

### **Additional resources**

We encourage Servicers to visit the [Flex Modification web page](#), which includes a [term sheet](#) for the modification. Additional Flex Modification resources will also be available on the [Freddie Mac Learning Center](#) by the end of the first quarter of 2017.



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## Modification of a Mortgage subject to an indemnification agreement

In an effort to assist more Borrowers, we announced updated Guide requirements in Bulletin 2016-5 to permit a Mortgage subject to an indemnification agreement to be eligible for a mortgage modification provided the Mortgage meets certain conditions. The Bulletin also included a Modification Loss Amount calculation example.

We are announcing adjustments to the Modification Loss Amount calculation example provided in Bulletin 2016-5. To more closely align with the calculation used to assess the impacts of mortgage modifications for Mortgages included in Structured Agency Credit Risk transactions, we are revising certain steps of the methodology used to determine the Modification Loss Amount as described below (the changes from Bulletin 2016-5 are shown in bold):

1. Calculate "Original Accrual Rate" – the lesser of (i) the pre-modified Accounting Net Yield (ANY) as of the evaluation date; and (ii) the pre-modified Note Rate MINUS 0.35%
2. Calculate "Current Accrual Rate" – the lesser of (i) the post-modified ANY as of the evaluation date; and (ii) the post-modified Note Rate MINUS 0.35%
3. Calculate "Modification Shortfall" – the excess, if any, of (i) one-twelfth of the Original Accrual Rate multiplied by the **sum of the prior month's post-modified, interest-bearing UPB and the prior month's post-modified, non-interest-bearing UPB**; over (ii) one-twelfth of the Current Accrual Rate multiplied by the **prior month's post-modified, interest-bearing UPB**
4. Calculate "Modification Excess" – the excess, if any, of (i) one-twelfth of the Current Accrual Rate multiplied by **prior month's post-modified, interest-bearing UPB**; over (ii) one-twelfth of the Original Accrual Rate multiplied by the **sum of the prior month's post-modified, interest-bearing UPB and the prior month's post-modified, non-interest-bearing UPB**
5. Calculate the Modification Loss Amount – the excess of the aggregate monthly Modification Shortfall over the aggregate monthly Modification Excess

As a reminder, Freddie Mac will calculate the Modification Loss Amounts owed to Freddie Mac on a monthly basis, and billed on an annual basis for the life of the modified Mortgage. If the Mortgage is subject to a partial indemnification, each year the Servicer will be billed the appropriate percentage of the Modification Loss Amount that corresponds with the partial indemnification agreement.

Guide impacts: Sections 9101.3, 9102.5, 9205.4 and 9206.3 through 9206.5

## SERVICER RESPONSIBILITIES AFTER A THIRD-PARTY FORECLOSURE SALE

Servicers must comply with the following requirements for foreclosure sales on and after **April 17, 2017**.

In certain jurisdictions, a mortgagee's interest in the Mortgaged Premises may not be immediately extinguished with a third party's successful bid at foreclosure sale. For example, some jurisdictions require that a foreclosure sale be confirmed or ratified by the court after the sale. In such situations, the Servicer is still responsible for protecting Freddie Mac's interest, including handling certain Servicing functions, until the foreclosure action is complete and Freddie Mac's interest is extinguished in accordance with applicable law.

With this Guide update, we are specifying Servicer responsibilities related to property preservation and advancement of property taxes and insurance premiums following a third party's purchase of a property at a foreclosure sale.

During the period between the foreclosure sale date and the date the foreclosure action is completed (which might not be until the sale is confirmed or ratified), unless prohibited by applicable law:

- The Servicer must continue to order and obtain timely and accurate property inspections, as required in Section 9202.12

- 
- The Servicer must submit a request for pre-approval (RPA) using the RPA functionality in the Freddie Mac Reimbursement System and obtain approval of the request from Freddie Mac prior to completing any necessary property preservation or maintenance, even if the work recommended by the Servicer is within the published allowable limits in Exhibit 57. (Note that, unless deferred maintenance caused or may cause Freddie Mac to have additional responsibilities or obligations in or for the property, Servicers must not be completing maintenance work.)
  - If determined to be in Freddie Mac's best interest, the Servicer may continue to advance all property taxes and property insurance premiums that become due if the net sale proceeds from the third-party foreclosure sale did not equal or exceed the total indebtedness (e.g., the UPB, accrued interest, Escrow advances and expenses). In this situation, Freddie Mac will reimburse the Servicer for such advances to the extent those amounts are not recovered from the Borrower or purchaser. If the net sale proceeds equal or exceed the total indebtedness, the Servicer may advance property taxes and property insurance premiums that become due in its discretion but Freddie Mac will not reimburse these amounts.

Guide impacts: Sections 8403.2, 9202.12, 9301.26, 9701.7 and 9701.9

## **FORM 981, AGREEMENT FOR SUBSEQUENT TRANSFER OF SERVICING OF SINGLE-FAMILY MORTGAGES**

**Effective on and after June 1, 2017**

Based on Servicer feedback and to improve operational efficiency, we are revising Form 981 to require the use of Electronic Signatures. We are also updating the form to add necessary Electronic Signature contracting language (including a reference to Guide Chapter 1401).

Effective with Subsequent Transfer of Servicing requests submitted on and after June 1, 2017, both the Transferor and Transferee Servicer must sign the updated Form 981 using an Electronic Signature and submit the form to Freddie Mac via e-mail at [transferofservicing@freddiemac.com](mailto:transferofservicing@freddiemac.com). If the Transferor and Transferee Servicer are both able to sign Form 981 with an Electronic Signature and transmit it as an Electronic Record, they may begin utilizing the new form on and after **April 3, 2017**. When signing Form 981 with an Electronic Signature, the Transferor and Transferee Servicer must follow the **Form 981 Electronic Signature Process**.

If the Transferor or Transferee Servicer is unable to electronically sign Form 981 prior to June 1, 2017, then they must sign and submit the current Form 981 to Freddie Mac through May 31, 2017 as currently required via fax at (571) 382-4886 or e-mail at [tos@freddiemac.com](mailto:tos@freddiemac.com).

Additionally, we are updating Form 981 to revise and relocate certain other provisions and no longer require specific lists of the Mortgages being transferred with certain features be submitted to Freddie Mac. The Transferor Servicer must continue to provide to the Transferee Servicer any and all data related to each Mortgage to be transferred with the form, as specified in revised Section 7101.2. Section 7101.2 is also being revised to align with the form and provide the **Form 981 Electronic Signature Process**.

As a reminder, a list of all Mortgages to be transferred must be submitted through the Freddie Mac Service Loans application and Freddie Mac will indicate approval, if appropriate, by providing an approval letter via the Service Loans application.

The terms "Electronic," "Electronic Record" and "Electronic Signature" are defined in Section 1401.2.

Guide impacts: Sections 7101.2 and 7101.4, Directory 3 and Form 981

## **ADDITIONAL GUIDE UPDATES**

### **Texas Equity Section 50(a)(6) Mortgages**

In response to Servicer feedback, we are updating notification requirements for a Servicer that receives a Borrower notification asserting that a Trial Period Plan involving a Texas Equity Section 50(a)(6) Mortgage violates the Texas Constitution. If the Servicer receives such a notification, the Servicer must notify the Special Asset Unit at Freddie Mac within seven Business Days of receipt in accordance with Section 8104.1.

Servicers' notification obligations under Section 9206.13 no longer apply to Trial Period Plans and now are limited to submission of post-settlement correction requests relating to Borrower complaints involving modifications of Texas Equity Section 50(a)(6) Mortgages.

The revised notification requirements are described below:

Freddie Mac notification requirements for settled modifications (per Section 9206.13)	Freddie Mac notification requirements for a Borrower in a Trial Period Plan (per Section 8104.1)
The Servicer must complete and submit certain sections of Form 1205, <i>Post-Settlement Correction Request</i> , to Freddie Mac via e-mail at <b><u>Post_settlement_correction@freddiemac.com</u></b> .	The Servicer must send a copy of the notification and/or related information to the Special Asset Unit at Freddie Mac via fax at (571) 382-4933 or e-mail at <b><u>Distressed_Property@freddiemac.com</u></b> .

We are additionally updating the Guide to require that the Servicer must cure any curable defects related to the terms of the Trial Period Plan of such Mortgages in accordance with the provisions of, and within the specified time frame in, Section 50(a)(6) of Article XVI of the Texas Constitution, and all other requirements of Section 8104.1.

Guide impacts: Sections 8104.1 and 9206.13

### **Servicer reimbursement for use of a lockbox on an abandoned property**

Servicers are encouraged to secure abandoned properties with knob locks or lockboxes under the terms of the Mortgage documents and applicable law. Exhibits 57 and 74 provide a maximum of \$60 reimbursement for knob locks if they are used for access to, and/or securing of an abandoned property. We are now also providing reimbursement for lockboxes. To receive reimbursement for a knob lock or lockbox up to the allowable limit of \$60, the Servicer must report expense code "090028" in the Reimbursement System. If a Servicer would like reimbursement for costs in excess of the \$60 allowable limit, the Servicer must submit an RPA using the RPA functionality in the Reimbursement System and obtain approval of the request from Freddie Mac.

Guide impacts: Exhibits 57 and 74

### **Foreclosure suspension**

We are updating Section 9102.5 to align with the revisions to Section 9301.28 announced in Bulletin 2016-13 related to the elimination of a foreclosure suspension requirement.

Guide impact: Section 9102.5

### **GUIDE UPDATES SPREADSHEET**

For a detailed list of the Guide updates associated with this Bulletin and the topics with which they correspond, refer to the Bulletin 2017-1 (Servicing) Guide Updates Spreadsheet available at **[http://www.freddiemac.com/singlefamily/guide/docs/bl1701\\_spreadsheet.xls](http://www.freddiemac.com/singlefamily/guide/docs/bl1701_spreadsheet.xls)**.

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## CONCLUSION

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call Customer Support at (800) FREDDIE.

Sincerely,

A handwritten signature in black ink, appearing to read "Yvette W. Gilmore". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Yvette W. Gilmore  
Vice President  
Servicer Performance Management



## Fannie Mae Flex Modification

Fannie Mae has combined the features of the Fannie Mae Home Affordable Modification Program (HAMP), Standard Modification, and Streamlined Modification into the Fannie Mae Flex Modification program, offering Servicers an easier, flexible way of helping more borrowers qualify for a loan modification in a changing housing environment. The Fannie Mae Flex Modification will replace HAMP and the Standard and Streamlined Modification programs with a single modification program that leverages the lessons learned from the housing crisis.

**NOTE:** *This fact sheet provides a preliminary, high-level overview of the program. Please read [Lender Letter LL-2016-06](#) for complete requirements.*

### Program Highlights

The Flex Modification leverages components of HAMP, the Fannie Mae Standard and Streamlined Modifications. Highlights include:

- The Fannie Mae Flex Modification can be applied to all mortgage loan delinquencies, and to mortgage loans that are determined to be in imminent default in accordance with the *Servicing Guide*.
- The program will offer additional payment relief allowing forbearance of principal to an 80% mark-to-market loan-to-value ratio (MTMLTV) for eligible borrowers (not to exceed 30% of the unpaid principal balance) in two ways:
  - For borrowers less than 90 days delinquent, the program requires a complete loss mitigation application and targets a 20% payment reduction and 40% housing expense-to-income ratio.
  - For borrowers 90 or more days delinquent, the program targets a 20% payment reduction and requires no borrower documentation.

### Evaluation Hierarchy

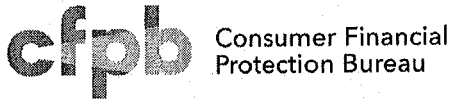
Prior to implementing the Fannie Mae Flex Modification, the Servicer must follow the existing loss mitigation evaluation hierarchy as described in our *Servicing Guide*. Once a Servicer implements the Fannie Mae Flex Modification, they must discontinue evaluating borrowers for the Standard and Streamlined Modifications.

### What Servicers Need to Do

Review the Fannie Mae Flex Modification requirements in [Lender Letter LL-2016-06](#), including the eligibility requirements, modification terms, solicitation requirements, and executing and recording requirements. Also, the servicer should review the changes to the Fannie Mae Streamlined Modification Post Disaster Forbearance and Fannie Mae Cap and Extend Modification for Disaster Relief programs.

We're providing this information now to allow Servicers time to begin updating their systems as soon as possible. Servicers must begin evaluating their portfolios using the criteria described in the Lender Letter no later than October 1, 2017, but may start to submit cases to Fannie Mae as early as March 1, 2017.

This new modification will replace the current Fannie Mae Standard and Streamlined Modification offerings on and after October 1, 2017. In the interim, Servicers must continue to evaluate borrowers for Standard and Streamlined Modifications following the evaluation hierarchy.



1700 G Street NW, Washington, DC 20552

## **CFPB's Principles for the Future of Loss Mitigation**

This document outlines four principles, Accessibility, Affordability, Sustainability, and Transparency, that provide a framework for discussion about the future of loss mitigation as the nation moves beyond the housing and economic crisis that began in 2007. As the U.S. Department of Treasury's Home Affordable Modification Program (HAMP) is phased out, the Consumer Financial Protection Bureau (CFPB) is considering the lessons learned from HAMP while looking forward to the continuing loss mitigation needs of consumers in a post-HAMP world. These principles build on, but are distinct from, the backdrop of the Bureau's mortgage servicing rules and its supervisory and enforcement authority. This document does not establish binding legal requirements. These principles are intended to complement ongoing discussions among industry, consumer groups and policymakers on the development of loss mitigation programs that span the full spectrum of both home retention options such as forbearance, repayment plans and modifications, and home disposition options such as short sales and deeds-in-lieu.

The future environment of mortgage default is expected to look very different than it did during the crisis. Underwriting based on the ability to repay rule is already resulting in fewer defaults. Mortgage investors have recognized the value of resolving delinquencies early when defaults do occur. Mortgage servicers have developed systems and processes for working with borrowers in default. The CFPB's mortgage servicing rules have established clear guardrails for early intervention, dual tracking, and customer communication; however, they do not require loss mitigation options beyond those offered by the investor nor do they define every element of loss mitigation execution.

Yet, even with an improved horizon and regulatory guardrails, there is ample opportunity for consumer harm if loss mitigation programs evolve without incorporating key learnings from the crisis. While there is broad agreement within the industry on the high level principles, determining how they translate into programs is more nuanced. Further development of these principles and their implementation is necessary to prevent less desirable consumer outcomes and to ensure the continuance of appropriate consumer protections.

The four loss mitigation principles defined in this document were initially articulated at a "Life after HAMP" meeting hosted by Treasury in November 2015 and reiterated in a February 2016 symposium hosted by the Federal Housing Finance Agency (FHFA). These principles are also described in more detail in the recently published Treasury, the Department of Housing and Urban Development (HUD), and FHFA white paper, "Guiding Principles for the Future of Loss Mitigation: How the Lessons Learned from the Financial Crisis can Influence the Path Forward." Although the Bureau agrees with Treasury, HUD, and the FHFA that a fifth principle, Accountability, is critical to the implementation of the other principles, the Bureau does not discuss accountability in this document. The Bureau's mortgage servicing rules provide standards for accountability when loss mitigation programs are offered.

Though these four principles, detailed below, have applicability to most loss mitigation programs, certain recommendations may not align with government insured lending programs such as those offered by Federal Housing Administration, Veterans' Affairs, or Rural Housing Service. The Bureau also notes that loss mitigation options appropriately include both home retention and home disposition options, depending on the individual circumstances. As used in this document, loss mitigation options include forbearance agreements, repayment plans, modifications, short sales, deeds-in-lieu and any other option that is intended to assist borrowers in finding a solution to their short- or long-term difficulty in paying their mortgage as originally agreed.

The CFPB believes these principles are flexible enough to encompass a range of approaches to loss mitigation, recognizing the legitimate interests of consumers, investors and servicers. One of the lessons of HAMP is that loss mitigation that is good for consumers is usually good for investors, as well. The CFPB therefore seeks to engage all stakeholders in a discussion of the principles for future loss mitigation.

## **Accessibility**

- Consumers can easily obtain and use information about loss mitigation options and application procedures from their servicers.
- Consumers can submit a request for loss mitigation using a common and readily available form of application in order to expedite consideration and to better enable housing counselors and others to support consumers in the loss mitigation process.
- Consumers are asked to submit only documentation necessary to enable consideration for available options, and servicers make appropriate efforts to obtain and verify information within the servicer's control.
- Consumers have ready access to individuals, including housing counselors and others, who can help them seek loss mitigation and understand the effect of the terms they are being offered.
- Consumers' requests for loss mitigation assistance are responded to timely and effectively by servicers.
- Consumers have access to clear and effective escalation options.
- Consumers are considered for appropriate loss mitigation options from imminent default through late stages of delinquency.
- Consumers who are similarly situated receive fair and equal consideration for loss mitigation options within similar timeframes.
- Servicers should generally be aware of and consider how they will meet the needs of those with limited English proficiency.

## **Affordability**

- When repayment plans and modifications are offered, they are generally designed to produce a payment and loan structure that is affordable for consumers.
- Modifications for consumers with hardships provide a meaningful payment reduction.
- Loss mitigation options are flexible enough to assist special populations (e.g., pre-crisis subprime loans) or unique circumstances (e.g., disasters).
- Consumers are not required to pay upfront costs or fees to obtain a loss mitigation option from their servicer.

## **Sustainability**

- The loss mitigation option offered is designed to resolve the delinquency.
- Deficiency balances are not imposed on consumers experiencing hardship as a condition of a short sale or deed-in-lieu on their principal residence.
- When modification options are used, they are designed to provide affordability throughout the remaining or extended loan term.
- Where trial modifications are used, successful trials are converted to permanent modifications timely and efficiently.
- Servicers and investors should consider modification options that reduce principal when doing so may benefit the investor, unless prohibited by statute.
- Loss mitigation options are defined and made available for consumers who decline a loan modification offer.
- Loss mitigation options are available for borrowers who re-default.
- Loss mitigation outcomes are monitored by servicers and investors to determine their impact on re-default rates, and program terms are adjusted to achieve effective outcomes and respond to economic conditions.

## **Transparency**

- All terms (e.g., deferred interest, future rate or term changes, and repayment of forbearance amounts) are clearly described in a manner consumers can understand. Plain language should be used to the extent reasonably feasible.
- Key loss mitigation vocabulary, e.g., hardship, imminent default, streamlined modification, etc., and data standards are defined and used consistently by mortgage servicers and investors.
- Consumers get clear, concise information and rationales about loss mitigation decisions.
- Consumers are not required to sign broad waivers of rights as a condition of receiving loss mitigation assistance.
- Key loss mitigation data is reported publicly on a regular basis to ensure that loss mitigation programs are effectively meeting consumer and market needs.





**GUIDING PRINCIPLES FOR THE FUTURE OF LOSS  
MITIGATION:  
HOW THE LESSONS LEARNED FROM THE FINANCIAL CRISIS CAN  
INFLUENCE THE PATH FORWARD**

July 25, 2016

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# **GUIDING PRINCIPLES FOR THE FUTURE OF LOSS MITIGATION:**

## **HOW THE LESSONS LEARNED FROM THE FINANCIAL CRISIS CAN INFLUENCE THE PATH FORWARD**

### **EXECUTIVE SUMMARY**

This white paper has been prepared by the U.S. Department of the Treasury (Treasury) in conjunction with the U.S. Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA)—together the Agencies—to continue the collaborative efforts of the past seven years to stabilize the housing market and help struggling homeowners recover from the financial crisis. With the termination of crisis-era programs at the end of this year, the Agencies are working with stakeholders to maintain strong loss mitigation programs going forward. This white paper examines the evolution of loss mitigation programs administered by the Agencies, and discusses the lessons learned from such programs. The paper also lays out five guiding principles that should be a foundation for future loss mitigation programs: accessibility, affordability, sustainability, transparency, and accountability.

The financial crisis of 2008 revealed that the mortgage servicing industry was ill-equipped to adequately respond to the needs of struggling homeowners. Indeed, there was no standard approach among mortgage servicers and investors about how to respond to homeowners who wanted to continue making payments, but were in need of mortgage assistance. Most solutions offered by servicers simply added unpaid interest and fees to the mortgage balance, which often resulted in higher—and thereby less sustainable—payments for homeowners, regardless of a hardship.

In early 2009, a government-sponsored program—Making Home Affordable (MHA)—was established to provide foreclosure alternatives to homeowners impacted by the financial crisis. The Home Affordable Modification Program (HAMP), the first and largest program under MHA, provided a standard for mortgage modifications that crossed mortgage servicer and investor types, with the goal of reducing struggling homeowners' monthly mortgage payments to an affordable and sustainable amount.

*"We're not just helping homeowners at risk of falling over the edge; we're preventing their neighbors from being pulled over that edge, too – as defaults and foreclosures contribute to sinking home values, failing local businesses, and lost jobs."*

*~ President Obama*

As the needs of homeowners changed over time, the Agencies responded by expanding the options available under MHA and HAMP, and by introducing additional loss mitigation programs and standard practices for homeowner outreach and engagement. FHFA's Servicing Alignment Initiative (SAI) and HUD's expansion of options for mortgagees with mortgages insured by the Federal Housing Administration (FHA), provided additional assistance to struggling homeowners and furthered the promotion of common standards across mortgage servicers and investors.

In total, through government programs and private sector efforts, 10.5 million modification and mortgage assistance arrangements were completed between April 2009 and the end of May 2016.<sup>1</sup> The Agencies have also helped homeowners by creating a transparent process, setting standards for how modifications should be done, and prompting changes in industry procedures to mirror the standards established through MHA, SAI, and other programs administered by the Agencies.

As a result of the Agencies' programs, regulatory actions, and private sector initiatives, steps taken by the mortgage servicing industry to improve practices over the past seven years have been encouraging. The industry is generally better prepared now to provide assistance to struggling homeowners than it was before the crisis. This is due, in part, to the adoption of certain homeowner engagement standards including continuity of contact, solicitation timeframes, and certain notice and appeal processes required by the Consumer Financial Protection Bureau (CFPB).

There is, however, more work to be done. Certain programs—e.g., MHA programs—introduced in response to the financial crisis were temporary and will end this year. With some exceptions, servicers will no longer be required to evaluate homeowners for a standard mortgage modification like HAMP. Instead, servicers and investors will need to utilize proprietary loss mitigation programs (either existing or new), and determine the appropriateness of such programs in a more economically stable, post-crisis environment. It is in this context that the Agencies intend to continue their collaborative efforts to help design a framework for the future of loss mitigation. Such a framework should incorporate—and modify as necessary—the best practices and guiding principles that have led to positive outcomes for all stakeholders, including homeowners, investors, and servicers.

## INTRODUCTION

Over the past seven years, the U.S. Department of the Treasury (Treasury), the U.S. Department of Housing and Urban Development (HUD), and the Federal Housing Finance Agency (FHFA)—together the Agencies—have established programs that have resulted in homeowners being able to avoid foreclosure. These efforts have led to improved consumer engagement in the loss mitigation process, to new standards for the types of loss mitigation products offered to homeowners by servicers, and to standard procedures for how such products are provided. The efforts have also supported the recovery of the housing market and demonstrated that a mortgage modification can be a sustainable option for homeowners seeking to avoid foreclosure.

Foreclosures can have severe consequences for families and communities. In addition to damaging a homeowner's access to credit, foreclosures can hinder children's educational success, increase crime in communities, and drain resources from local governments. Studies have shown that when families with children enter foreclosure, children are more likely to suffer in school and develop behavioral and health issues.<sup>ii</sup> Widespread foreclosures not only depress housing prices in a community, but can create a contagion effect that can ripple through the local economy. Neighborhoods may experience more crime when properties become vacant and local governments reduce police forces due to declining tax revenues.<sup>iii</sup> The personal and societal impacts of mass foreclosures highlight the importance of government-sponsored foreclosure prevention programs to help struggling homeowners.

Before 2009, the mortgage industry was not prepared to deal with a financial crisis or modify mortgages on a widespread scale. Mortgage servicers had insufficient resources to address the needs of a market that was struggling from increasing foreclosures. Mortgage servicers' expertise and infrastructure was largely focused on overseeing collection processes and foreclosing on those who failed to pay. In many cases, mortgage servicers were not delegated to approve loan modifications without investor approval. While that model may have been sufficient for the industry during times of economic growth and house-price appreciation, it proved to be inadequate in 2007, when the industry experienced rapidly rising defaults and declining home prices, which—in large part—were driven by widespread foreclosures.

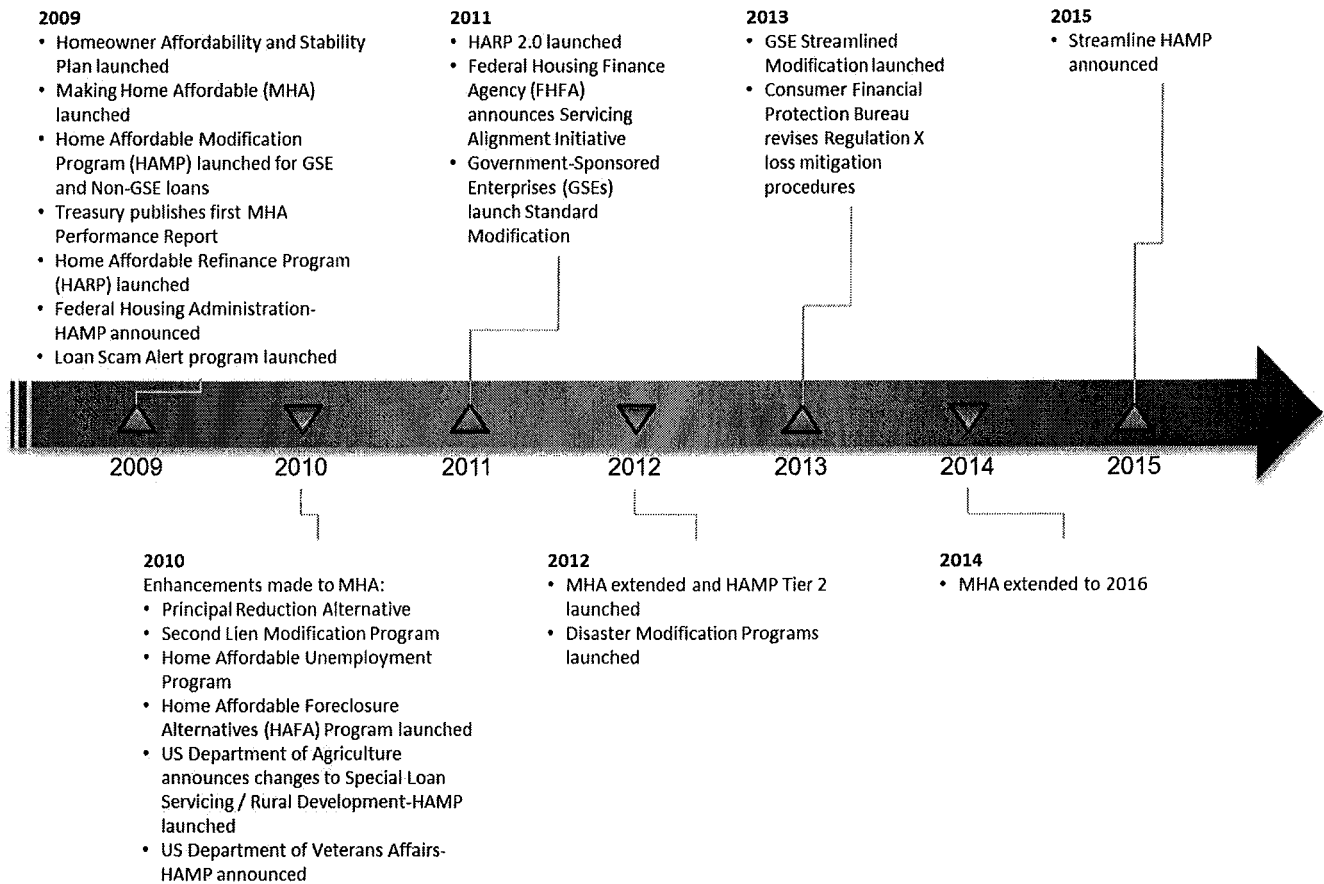
In addition, there was no standard approach among mortgage servicers or investors to assist homeowners who were making payments, but were at risk of becoming delinquent due to a financial hardship. Most solutions offered to a delinquent homeowner before 2009 sought to mitigate the investor's risk by adding unpaid interest and fees to the mortgage balance. These options often resulted in higher payments for homeowners and did not address the hardship or long-term affordability. As a result, the few options for payment relief were typically ineffective and resulted in high re-default rates.<sup>iv</sup>

Since 2009, a number of government-sponsored programs have enabled federal agencies, mortgage servicers, investors, housing counselors, and other stakeholders to gain valuable insights into the development of effective loss mitigation solutions. One such program—Making Home Affordable (MHA)—was established pursuant to the Emergency Economic Stabilization Act of 2008 (EESA).<sup>v</sup> Under MHA, the Home Affordable Modification Program (HAMP) was established to provide permanent mortgage modifications to struggling homeowners with mortgage liens originated on or before January 1, 2009. FHFA and the government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, then introduced the Servicing Alignment Initiative (SAI) to assist struggling homeowners and to mitigate GSE losses.

As a result of the collaborative work over the past seven years, progress has been made by the mortgage industry to improve available loss mitigation solutions that benefit homeowners, investors, and

servicers. As evidenced by modification performance rates discussed in this paper, MHA, SAI, and the other programs administered by the Agencies have demonstrated that mortgage modifications can be sustainable. In addition, the Consumer Financial Protection Bureau (CFPB) has issued regulations that incorporate key standards for homeowner engagement that did not exist prior to the financial crisis. These include, for example, continuity of contact, solicitation timeframes, and certain notice and appeal processes, all of which are now mandatory mortgage servicing industry practices for institutions regulated by CFPB.

FIGURE 1: TIMELINE OF CRISIS-ERA HOUSING PROGRAM DEVELOPMENTS [SEE APPENDIX B FOR DETAILED TIMELINE]



When the MHA programs terminate on December 31, 2016, there will no longer be a standard loss mitigation option that cuts across servicer and investor types.<sup>vi</sup> Other pieces of the infrastructure supported by MHA and HAMP, such as requirements to offer post-modification counseling, third party escalation centers, and public reporting of modification and servicer performance will also be phased out, or provided on a limited basis depending on investor or servicer. It is in this context that the Agencies look to continue their collaborative efforts and encourage stakeholders to design a framework for the future of loss mitigation. Further, the Agencies recommend that the framework incorporate—albeit modified as necessary for a non-crisis housing market—the best practices developed under MHA and other programs, which have led to positive and sustainable outcomes for homeowners, investors, and servicers.

To further this effort, this paper will examine the evolution and lessons learned from the loss mitigation programs administered by the Agencies. The paper will explore the framework of principles that should inform future loss mitigation offerings, and lay out the potential challenges and open questions that need to be addressed in a more stable housing market.

## **THE EVOLUTION OF LOSS MITIGATION OPTIONS**

In response to the financial crisis, the Agencies introduced MHA, SAI, and other programs to stabilize the housing market and assist in the avoidance of foreclosure. These programs offer both home retention and non-retention solutions for a variety of situations, and include first and second lien modifications, short sales or deeds-in-lieu of foreclosure, and forbearance plans where appropriate—such as for the unemployed.

In addition to participating in HAMP, the GSEs, under the direction of FHFA, implemented SAI, which increased delegation authority for servicers and created a hierarchy of home retention and foreclosure alternative programs that set default servicing standards for GSE loans nationwide. At HUD, the Federal Housing Administration (FHA) provided loss mitigation options and developed process standards for mortgagees to offer to eligible borrowers with mortgages insured by FHA. In all, the programs and processes introduced by the Agencies improved the accessibility, affordability, sustainability, and transparency for loss mitigation options, and increased accountability, which prompted greater positive change within the mortgage industry.

### **Financial Crisis Loss Mitigation Programs**

MHA—particularly through HAMP—established unified principles for effective loss mitigation policy across the servicing industry, with the participation of thousands of mortgage servicers servicing loans owned by private investors or insured or guaranteed by the GSEs, FHA, the U.S. Department of Agriculture's (USDA) Rural Housing Service, and the U.S. Department of Veterans Affairs (VA).<sup>vii</sup> In many cases, HAMP provides financial incentives to homeowners, servicers, and investors to modify the first lien mortgage of a qualified borrower who is behind on his/her mortgage, or in danger of imminent default due to financial hardship. HAMP was established as a response to the financial crisis and will no longer be an option for homeowners after December 31, 2016, except to those struggling homeowners with loans insured or guaranteed by FHA, USDA or VA.

The first option for which most homeowners were evaluated was a traditional HAMP modification—which came to be known as “HAMP Tier 1” for non-GSE loans and “GSE HAMP” for GSE loans. HAMP Tier 1 and GSE HAMP target a housing Debt-to-Income (DTI) ratio of 31 percent and are only offered on loans secured by principal residences. In 2012, additional modification options were developed to increase the number of homeowners eligible for assistance. The Standard Modification for GSE loans and HAMP Tier 2 for non-GSE loans were introduced to help homeowners ineligible for assistance under GSE HAMP or HAMP Tier 1. GSE Standard Modification and HAMP Tier 2 expanded eligibility by providing a target post-modification housing DTI ratio equal to or greater than 10 percent and less than 55 percent, and by opening the program to loans secured by a non-owner occupied property.

As the modification programs matured, the Agencies introduced streamlined modification options for GSE (GSE Streamlined Modification) and non-GSE (Streamline HAMP) loans. Under the streamlined modification, an eligible homeowner who is at least 90-days delinquent is proactively offered a loan modification without being required to submit an application. In addition, the servicer is not required to verify income or underwrite to a targeted housing DTI. However, if a complete borrower application

package is received, then a borrower will be evaluated for a HAMP modification—Tier 1, Tier 2 or GSE HAMP as applicable.

HUD also introduced enhancements to the Loss Mitigation Program for FHA-insured mortgages. The Loss Mitigation Home Retention Priority Waterfall for FHA-insured mortgages was revised to achieve a targeted payment reduction of 20 percent for FHA-HAMP modifications with a resulting housing DTI ratio equal to or greater than 25 percent and less than or equal to 31 percent.

The Agencies also introduced foreclosure alternative options such as short sales and deeds-in-lieu of foreclosure to help avoid foreclosure when home retention is not attainable or desirable. The short sale and deed-in-lieu of foreclosure programs provide an opportunity for servicers to further engage with homeowners to find the right solution for the individual homeowner's situation, particularly when the homeowner is not eligible for a modification or—in certain circumstances—no longer desires to stay in the home and owes more than their home is worth.

### **Standardization of Loss Mitigation Processes**

The Agencies created standard processes to improve the modification programs for the benefit of homeowners, servicers, and investors. Prior to 2009, the loss mitigation infrastructure was fragmented. There were few, if any, industry-wide standards or processes to assist struggling homeowners. The introduction and evolution of MHA and SAI resulted in a coherent loss mitigation infrastructure that provides a set of standards and processes for efficient and positive outcomes for all parties.

Some examples of the infrastructure created under the Agencies' programs that have helped millions of homeowners keep their homes include:

- Standards and processes for outreach to delinquent homeowners;
- Widespread availability of independent and expert housing counseling and legal services to help homeowners improve their financial situations, resolve delinquencies, and avoid foreclosure;
- Increased delegation authority for servicers to make loss mitigation decisions based on clear investor guidelines;
- Standardized and transparent “waterfalls” for determining the order in which loss mitigation options are offered (e.g., reinstatement, repayment plan, forbearance, modification, short sale, and then deed-in-lieu of foreclosure);
- Standardized and transparent waterfall steps (e.g., interest rate reduction, term extension, principal forgiveness/forbearance) that are applied to modify the mortgage payment;
- Systems that allow coordination between first and second lien holders to holistically address a homeowner's mortgage situation;
- Post-modification counseling to help homeowners remain current under their modified mortgage;
- Principal reduction programs for underwater homeowners to reduce negative equity and monthly mortgage payments;
- Strong compliance and oversight functions by federal agencies; and
- Opportunities for engaging with stakeholders that represent varied viewpoints and interests to be considered when developing loss mitigation options.

The introduction of this infrastructure transformed the mortgage servicing industry from one focused primarily on collecting payments for investors, to one focused on working with homeowners to find mutually beneficial solutions for all parties.



## HOMEOWNER ENGAGEMENT PROCESSES

The government-sponsored programs also introduced consistent treatment for homeowners and established standards for the way in which the mortgage servicing industry should assist struggling homeowners.

In 2010, FHFA directed the GSEs to discuss existing and possible new practices to mitigate losses and—where feasible—develop consistent requirements for servicing non-performing loans and joint standards for evaluating servicer performance. This effort—SAI—set standards that aligned the GSEs, but more importantly, refocused servicers' attention to their obligations to assist homeowners immediately following delinquency, when the pursuit of foreclosure alternatives was more feasible and likely to succeed. Under the initiative, FHFA and the GSEs developed servicing rules to align four key areas:

- **Borrower Contact** – Sets forth uniform standards for borrower communication with a focus on understanding the borrower's situation, and articulates call center benchmarks.
- **Delinquency Management** – Sets borrower solicitation and response standards, defines delinquency timeline and applicable servicer requirements, and articulates processes for reviewing and responding to borrower complaints.
- **Loan Modifications** – Defines eligibility and terms for standard and streamlined modification offerings, targeting borrowers who are ineligible for HAMP.
- **Servicer Incentives and Compensatory Fees** – Provides tiered modification incentives for servicers to encourage them to resolve delinquencies early in the process. Failure to comply with published foreclosure timelines may subject the servicer to compensatory fees for delays within their control.

Once SAI was announced and implemented, FHFA and the GSEs continued to improve and build upon their policy objectives of ensuring that servicers were effectively engaging with homeowners to resolve cases earlier, that there was greater transparency in decisions for distressed homeowners, that servicers were being held accountable for their performance, and that the GSEs and servicers were complying with standards and fostering consistency across key default processes.

Similar efforts and policies were pursued by Treasury in collaboration with FHFA, the GSEs, mortgage servicers, and homeowner advocates, which resulted in HAMP requirements for servicers of non-GSE mortgage loans. Today, many of the key HAMP and SAI procedures for the way in which servicers provide assistance to struggling homeowners have been adopted in Regulation X, which implements the Real Estate Settlements and Procedures Act (RESPA).<sup>viii</sup> Examples include:

- Prohibitions against dual tracking homeowners for modifications and foreclosures;
- Providing the homeowner with a single point of contact (SPOC) at the servicer throughout the loss mitigation process;
- Mandatory solicitation of delinquent homeowners within specified timeframes; and
- Requirements for evaluation notices and an appeals process.

As a result of these policies, all parties better understand the terms of available loss mitigation solutions.

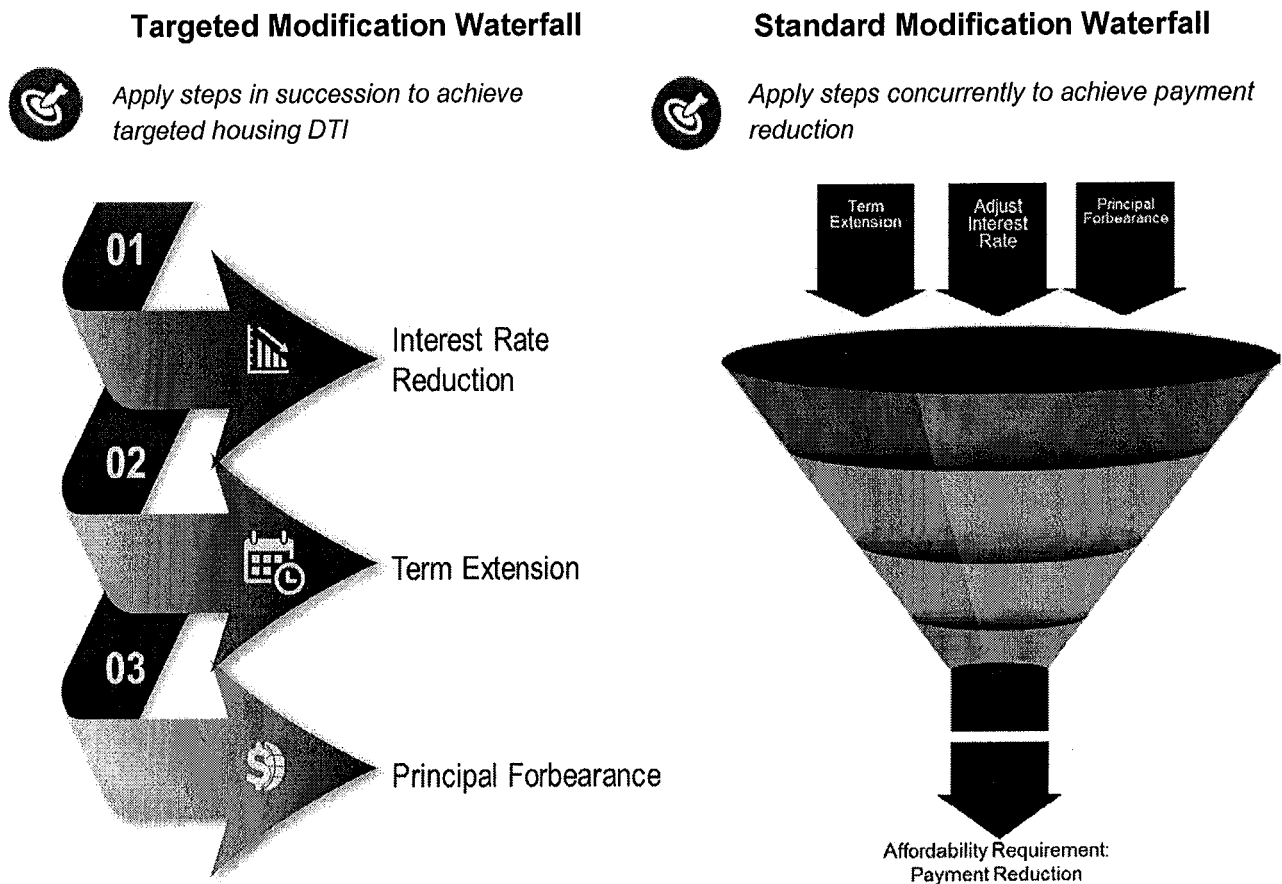
## MODIFICATION WATERFALL

The government-sponsored mortgage modification programs established a standard modification waterfall that applies capitalization, interest rate adjustment, term extension, and principal forbearance/forgiveness to qualifying mortgages in a particular order. These waterfalls create a standard

application of terms that all parties can understand and which can be enforced if necessary. They also offer affordability and sustainability through payment reduction.

The various programs apply the waterfall steps in different ways. For example, they can be applied in succession to reach a desired outcome, or all at once to determine the resulting payment. Both approaches can result in payment reduction and accommodate a housing DTI target or payment reduction target. Depending on how the waterfall is implemented, some programs are better able to maximize the number of eligible homeowners, while others are better equipped to tailor a modification in a way that specifically targets the homeowner’s unique financial situation.

FIGURE 2: MODIFICATION WATERFALLL COMPARISON



**HOUSING COUNSELORS**

Treasury and HUD co-sponsored events for homeowners that were designed to reduce the stigma associated with mortgage delinquency. At these events, homeowners could meet with mortgage servicers authorized to make on-the-spot decisions, as well as with staff from the GSEs and HUD-approved housing counseling agencies. Congress created the National Foreclosure Mitigation Counseling (NFMC) program<sup>ix</sup> in 2007 to provide struggling homeowners with a source of expert, unbiased housing counseling assistance for those at risk of foreclosure. As discussed in further detail below, housing counselors have played a key role in supporting both homeowners and servicers, and increased the number of foreclosures successfully avoided.

## **GUIDING PRINCIPLES FOR THE FUTURE OF LOSS MITIGATION**

Through their common experiences with loss mitigation programs over the past seven years, the Agencies have identified five principles that should guide future loss mitigation programs. The guiding principles are:

- **Accessibility:** Ensuring that there is a simple process in place for homeowners to seek mortgage assistance and that as many homeowners as possible are able to easily obtain the needed and appropriate level of assistance.
- **Affordability:** Providing homeowners with meaningful payment relief that addresses the needs of the homeowner, the servicer and the investor, to support long-term performance.
- **Sustainability:** Offering solutions designed to resolve the delinquency and be effective long-term for the homeowner, the servicer and the investor.
- **Transparency:** Ensuring that the process to obtain assistance, and the terms of that assistance, are as clear and understandable as possible to homeowners, and that information about options and their utilization is available to the appropriate parties.
- **Accountability:** Ensuring that there is an appropriate level of oversight of the process to obtain mortgage assistance for the protection of all parties.

Balancing these five guiding principles can help maximize participation in foreclosure-avoidance efforts and reduce losses on mortgage assets, thereby creating mutually beneficial outcomes for mortgage servicers, homeowners, and investors.

### **Accessibility**

Accessibility means that homeowners experiencing a wide variety of hardships can understand, participate in, and be eligible for foreclosure alternative programs. Standard processes should be simple to implement and execute at both the servicer and homeowner level. Communication, outreach, and engagement must be clear and concise so that all parties understand the processes and terms—including eligibility and documentation requirements. The needs of homeowners with limited English proficiency should be taken into consideration. In addition, homeowners should have access to clear and effective escalation options when they encounter difficulties in the process of seeking assistance.

### **SERVICER OPERATIONS**

An accessible loss mitigation process in which homeowners are informed and knowledgeable about the programs offered improves the speed and efficiency of operations for servicers. The improvements to the loss mitigation process over the past seven years have changed the business of mortgage servicing. Practices that can help servicers, homeowners, and investors understand the eligibility and documentation requirements for a home retention or foreclosure alternative solution include:

- Adoption of a uniform application, which can reduce the amount of time spent collecting documentation (a benefit to homeowners and servicers);
- Engaging trusted third-party networks to provide early, unbiased advice for borrowers such as housing counselors, call centers like the HOPE Hotline,<sup>x</sup> and anti-scam campaigns;
- Ensuring that homeowners interact with a single point of contact at the mortgage servicer; and
- Proactive communication by servicers with delinquent homeowners.

As the number of delinquencies and foreclosures subsided in recent years, the resources needed to service delinquent homeowners have also decreased. Going forward, those designing future loss mitigation programs should consider:

- The appropriate level of loss mitigation operations needed in a non-crisis environment;
- The role of borrower and servicer incentives;
- How operations and/or processes can be simplified or consolidated;
- How the costs of servicing in loss mitigation should be managed;
- How loss mitigation practices can most effectively address the needs of homeowners and investors; and
- How modifications can affect homeowners' access to credit in the future.

#### **BROAD AVAILABILITY OF MODIFICATIONS**

Accessibility also speaks to making home retention and foreclosure alternative solutions broadly available to servicers to be able to assist the greatest number of distressed homeowners while achieving positive investor economics. For long-term hardships, loan modification programs with strict post-modification targets and documentation requirements can negatively impact or limit eligibility and participation by homeowners. The introduction of more flexible programmatic targets—as seen in HAMP Tier 2, and in the GSE Standard Modification—helped to increase the population of eligible borrowers. Additionally, lower documentation requirements for streamlined modifications facilitated broader participation for seriously delinquent borrowers most likely to be foreclosed upon. However, for some short-term hardships the best solution for the homeowner may be an affordable re-payment plan, a modification that capitalizes arrearages and, if necessary, extends the term of the loan, or deferment of payments incrementally to achieve the pre-hardship payment.

Communication and document collection missteps can lead to confusion and decrease accessibility. According to a 2012 Fannie Mae consumer marketing survey, more than 50 percent of borrowers believed they had submitted complete documents, while only five to six percent of borrowers had actually submitted complete documents as reported by the servicer. Depending on the modification option, the level of documentation required can vary significantly—e.g., an income-based modification or one that is underwritten to a target housing DTI requires more documentation than a modification that targets a minimum payment reduction. With this in mind, those designing future modification programs should consider:

- Whether documentation requirements and/or submission methods can be simplified for homeowners and servicers;
- Whether alternative forms of documentation can be used to fully underwrite a modification, and/or what documentation can be obtained by the servicer as opposed to being submitted by the homeowner; and
- What documentation is necessary in exigent circumstances, such as for homeowners at risk of imminent default.

As described above, streamlined modification options for seriously delinquent homeowners were introduced for both GSE and non-GSE loans. The introduction of these programs allowed servicers to target a unique population that had not yet received assistance. There are, however, considerations when looking at a streamlined modification approach. In a streamlined solution, the servicer's ability to verify hardship and ensure payment affordability based on housing DTI ratio evaluation is limited. Nevertheless, streamlined solutions provide greater chances of assistance in cases where the servicer has been unable to establish contact with the borrower, or verify income documentation for certain borrowers—e.g., self-employed borrowers, or multi-generational households. It is important to strike the right balance between a simplified approach and one that maintains the flexibility to address a homeowner's unique situation.

Modifications with verified income and targeted housing DTI ratios—such as HAMP Tier 1 and GSE HAMP—allow servicers to tailor a modification in a way that targets the homeowner’s unique financial situation. This type of modification encourages interaction between the homeowner and the servicer that may lead to positive outcomes. There is, however, a risk that homeowners may become disengaged and/or increasingly delinquent while attempting to submit all the necessary documentation to their servicer for a housing DTI ratio evaluation.

Another factor that can affect the availability of foreclosure alternatives is the participation—or lack thereof—of investors. In order for modifications and other foreclosure alternatives to proceed, investors must authorize their servicers to offer foreclosure alternatives and—in many cases—approve the terms of the foreclosure alternative to be offered by the servicer. Servicers also need delegated authority to provide foreclosure alternatives to homeowners. This is especially important when mortgage loans are sold in the secondary market as mortgage-backed securities—e.g., deposited into a trust that holds many mortgages and the trust issues mortgage-backed securities to numerous investors. With rising housing prices and a more stable economic environment, ensuring investor participation requires additional attention.

Considerations related to investor participation should include:

- What impact foreclosure alternatives can have on investors (e.g., the impact on the value of a mortgage-backed security or other secondary market transactions);
- Whether mortgage-backed securities can remain liquid in a housing market with higher than usual modification rates; and
- Whether insurance on mortgage-backed securities is necessary to protect the value of the security when a loan is modified.

### **Affordability**

Affordability refers to meaningful payment relief to achieve sustainable monthly payments that meet the needs of the homeowner based on their particular type of hardship. Homeowners should not be required to pay upfront costs or fees for loss mitigation assistance.

### **WATERFALL STEPS TO ACHIEVE PAYMENT REDUCTION**

The government-sponsored programs made payment reduction a pillar of loan modifications, and targeted payment reduction through a waterfall for those borrowers unable to afford the monthly mortgage payment. As discussed above, each program applies capitalization, interest rate adjustment, term extension, and principal forbearance/forgiveness to qualifying mortgages. Those steps are applied in succession or simultaneously—depending on the program—to achieve affordable modifications. While these steps are the current industry standard, a different order or different steps may lead to better outcomes for homeowners, servicers, and investors in a non-crisis economic environment. The order of application of waterfall steps should be evaluated for future modification programs. Additional questions for consideration include:

- Whether a step-up modification—one in which the interest rate and, by extension, the monthly payment, increases gradually after a five year period until it reaches the market rate at the time of modification—is a viable tool to achieve payment reduction, particularly in an environment of higher market interest rates;
- Whether alternative solutions can help homeowners build equity more quickly;
- Whether there should be different waterfalls for homeowners with different equity positions;
- Whether there should be different foreclosure alternatives for homeowners with short-term and long-term hardships; and

- What additional options should be made available for homeowners in areas of localized distress and/or federally declared disaster areas.

### **HOLISTIC APPROACH**

In addition to focusing on mortgage payment reduction, servicers—working directly with the homeowner or with a housing counselor—should review and address a homeowner’s complete financial picture where possible.

For example, second liens should be reviewed—and where possible addressed—as part of a holistic approach to the homeowner’s financial situation. Under MHA, Treasury pioneered a modification program for second liens designed to work in tandem with a modification under HAMP Tier 1, HAMP Tier 2, or GSE Standard Modification. Under the program, a reporting system was developed to notify the servicer of a second lien once the first lien had been modified. The second lien holder then extinguishes or modifies the second lien and provides a more comprehensive solution to the homeowner’s overall mortgage debt. The use of housing counselors can also assist in addressing the homeowner’s broader financial picture. Housing counselors have the expertise to work with borrowers to review their entire income, expense, credit and debt profile, and help the borrower make long-term changes to improve their spending and savings habits. Specific barriers to successful repayment of the mortgage—such as student loan debt, a second lien, or negative equity—can be addressed as part of the loss mitigation process when a homeowner works with a housing counselor.

Finally, both the servicer and the borrower need to be aware of the wide array of subsidy or other assistance programs that may be available from local or private charitable organizations. These may include home retention programs, or programs that help families transition to an alternative housing situation with minimal additional damage to credit, savings, or children’s educational stability. Any future loss mitigation framework must create comprehensive solutions that help those homeowners in need achieve greater affordability by lowering their overall monthly payments. If an affordable modification is not possible, the servicer should discuss other foreclosure alternatives with a homeowner—such as a short sale or deed-in-lieu of foreclosure—and ensure that the homeowner is aware of all sources of assistance for his/her transition.

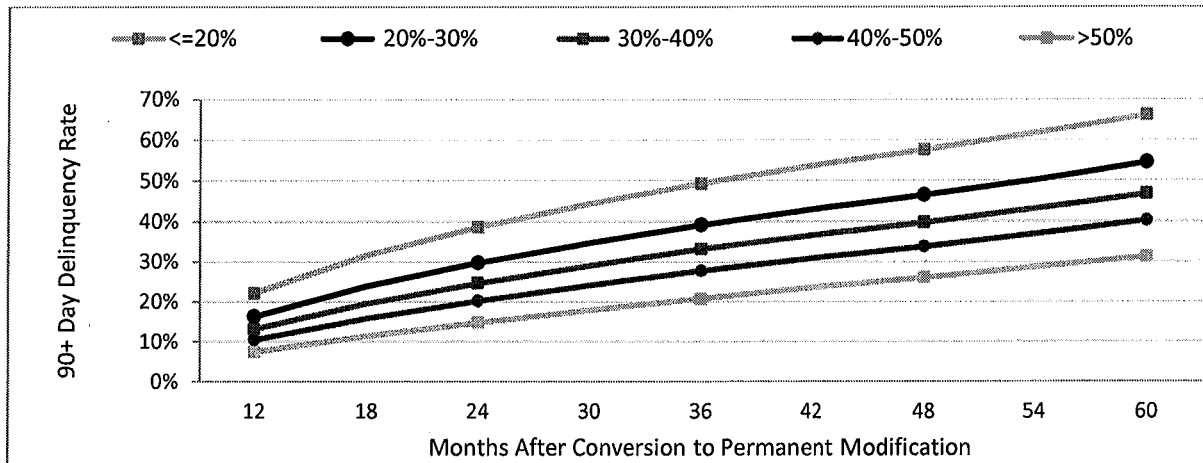
### **Sustainability**

Sustainability means offering solutions that work the first time. It is in the best interest of all parties to find the right solution as soon as possible when a homeowner becomes delinquent. Modifications made earlier in the delinquency process can reduce the risk that a homeowner will re-default in the future. Moreover, modifications that provide meaningful payment reduction will reduce the chance that borrowers will need additional help. Making sure that modifications meet these tests will decrease the chance of a homeowner re-defaulting.

### **PAYMENT REDUCTION**

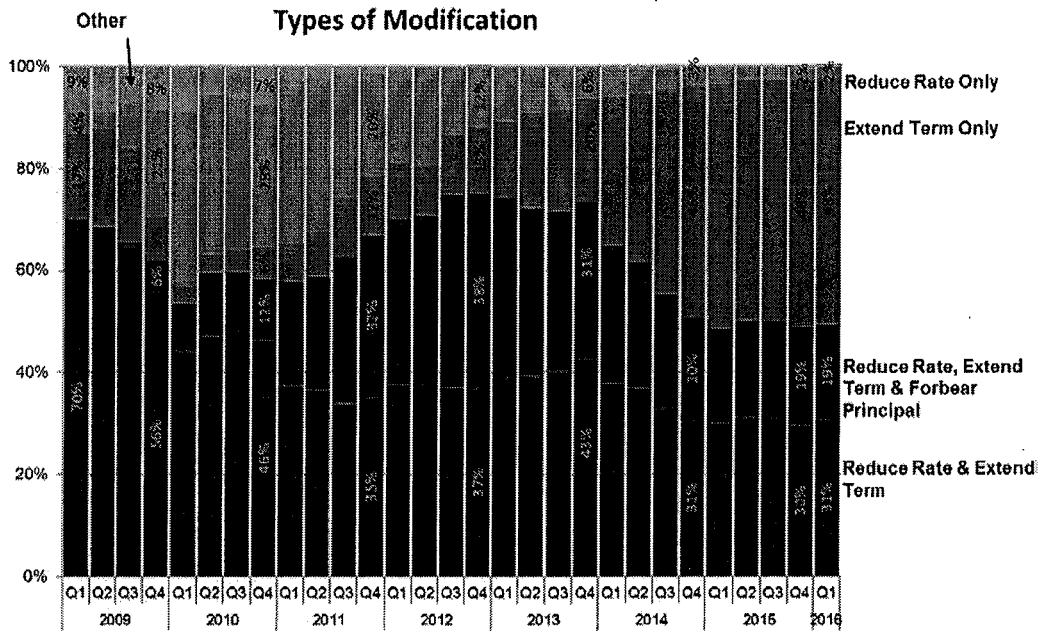
The data show that greater payment reduction can reduce the chance of re-default and ensure that homeowners have sustainable outcomes. For example, data from HAMP found that modifications with deeper payment reduction consistently outperform modifications with smaller payment reduction.

FIGURE 3: IMPACT OF PAYMENT REDUCTION (AS A PERCENTAGE OF THE ORIGINAL PAYMENT) ON DELINQUENCY RATES ACROSS 12-60 MONTH VINTAGES (GSE HAMP AND HAMP TIER 1).

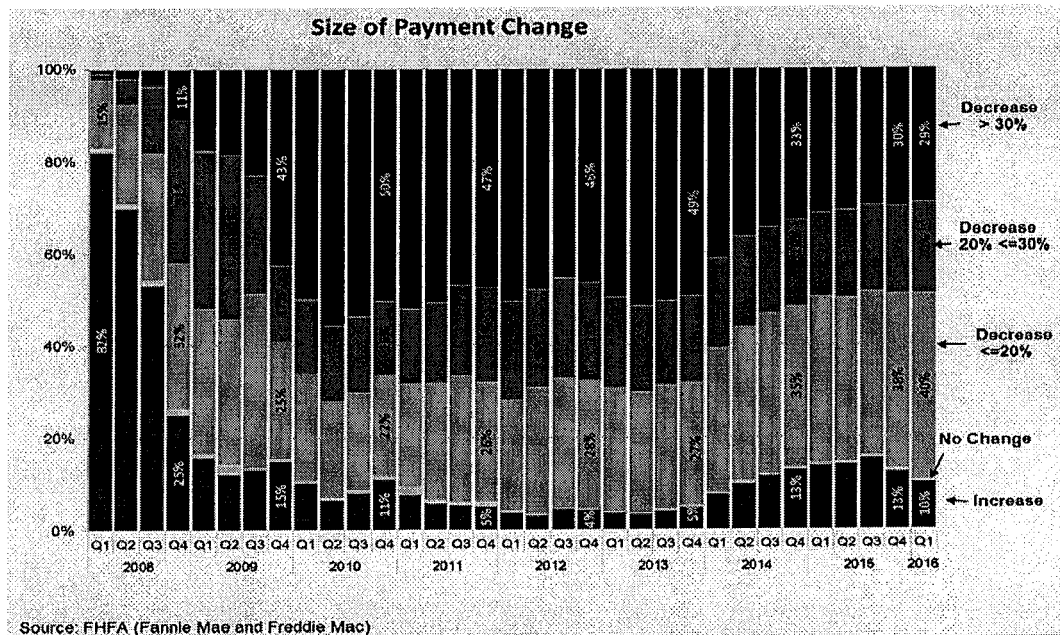


Likewise, data from FHFA demonstrates that payment reduction is a driver of performance for GSE-modified loans. Sixty percent of all GSE modifications offer up to a 30 percent payment reduction, with 29 percent of modifications offering payment reduction of more than 30 percent. These payment decreases are a result of using a waterfall of interest rate reduction, term extension and principal forbearance. Forty-eight percent of GSE modifications require only a term extension to provide meaningful payment reduction.

FIGURE 4: TYPES OF GSE MODIFICATIONS AND SIZE OF PAYMENT CHANGE



Source: FHFA (Fannie Mae and Freddie Mac)



This finding is further supported by data tracked by Office of the Comptroller of Currency (OCC): “Among modifications that reduce borrowers’ monthly payments, modifications that reduce payments by at least 10 percent consistently re-default at lower rates than modifications that reduce payments by less than 10 percent—the larger the reduction in monthly payment, the lower the subsequent re-default rate.”<sup>xi</sup>

In considering the future of mortgage modifications, however, attention should also be paid to how payment reduction can best be targeted to balance the benefits among all parties.

Considerations related to payment reduction should include:

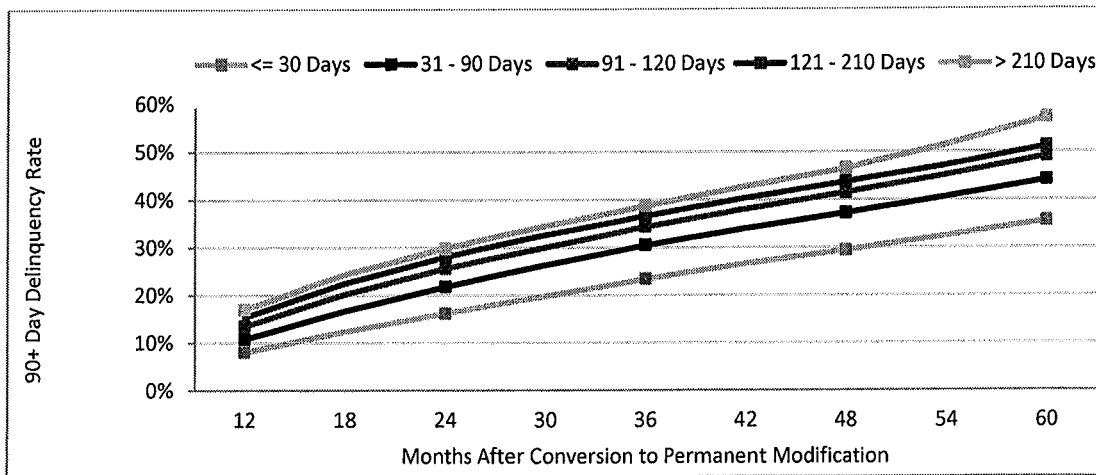
- The ability to provide sufficient payment reduction in different home price and interest rate environments;
- The flexibility to provide more payment relief to struggling homeowners in areas of greater economic distress;
- Whether the solution should target a standard level of payment reduction;
- Whether there should be different payment reduction strategies for homeowners with adjustable rate mortgage loans;
- If it is better to achieve deeper payment reduction that gradually step-up after a shorter time period, or to utilize longer-term solutions;
- Whether preference should be given to step-up payment plans versus fixed payment plans; and
- Whether the borrower has a short-term or long-term financial hardship.

### EARLY INTERVENTION

Data from HAMP has demonstrated that early intervention with delinquent homeowners is critical to preventing re-default after modification. The chart below shows that across all vintages, making modifications early in the delinquency of a homeowner can significantly improve the performance of the modified loan. The data highlight the importance of early interaction with delinquent homeowners as required under MHA and SAI.



FIGURE 5: IMPACT OF DELINQUENCY STAGE PRIOR TO MODIFICATION (IN DAYS) ON POST-MODIFICATION DELINQUENCY RATES AFTER MODIFICATION ACROSS 12-60 MONTH VINTAGES (GSE HAMP AND HAMP TIER 1).



### HOUSING COUNSELING

Housing and financial counseling can bolster the success of loss mitigation programs. Independent research has found that working with a HUD-approved housing counseling agency improves homeowner and servicer outcomes. The Urban Institute studied 240,000 loans over a four-year period and found that housing counseling funded by the NFMHC program greatly increased a homeowner’s ability to cure a serious delinquency or foreclosure. Counseled homeowners were nearly twice as likely to receive a cure for their serious delinquency or foreclosure as non-NFMHC counseled homeowners. Counseled homeowners are nearly three times as likely to receive a loan modification compared to non-counseled homeowners. Once modified, NFMHC counseled homeowners are less likely to re-default. This effect is largely attributable to services provided by counselors such as budgeting and financial management education, and developing an appropriate solution given the homeowner’s financial conditions.<sup>xii</sup> Housing counselors also help homeowners find alternatives to foreclosure when saving the home is not an option—counseled homeowners are more likely to obtain a short sale than non-counseled homeowners.

HUD recently published some early insights from The First-Time Homebuyer Education and Counseling Demonstration.<sup>xiii</sup> This study is following 5,800 participants in a randomized experiment to understand the impact of housing counseling on long-term housing success. HUD will publish the results over the next four years. Even at this early stage the study is providing important data about preferences and barriers. For example, the study found that early enrollees who were randomly assigned to receive housing education and counseling had a significantly higher positive response to the statement: “If in financial difficulty, the respondent would contact the lender for assistance before missing a mortgage payment.”

Congress has appropriated substantial funding for NFMHC, and nearly two million homeowners received foreclosure counseling between March 2008 and June 2015. The Agencies introduced housing and financial counseling into the loss mitigation process under the theory that a homeowner working with a trusted expert advisor would be more engaged and have a better understanding of the foreclosure alternatives provided by the servicer—which would result in more sustainable outcomes for all parties. Under MHA, servicers are required to offer financial counseling to homeowners to help them remain current on their modified mortgage loans. These counseling services help homeowners address their unique financial situations and hardships, and make sure that they understand the terms of their modified mortgage loans. In the future, considerations related to counseling should include:

- Whether the role of counselors should be adjusted or expanded to better serve homeowners;
- How servicers can help match homeowners with HUD-approved housing counseling agencies;
- How servicers can help ensure that homeowners complete counseling; and
- Whether servicers and homeowners share responsibility for compensating counselors given the decline and possible end of funding under NFMCC.

## Transparency

Transparency means making sure that the loss mitigation process is clear and understandable by all parties—and be made available in the public domain. Treasury and the GSEs—under the direction of FHFA—did this by standardizing the modification process and publishing the requirements. This allows housing counselors and borrowers to know generally what to expect when entering into a loan modification trial plan—whether a HAMP modification or any of the GSE proprietary modification offerings.

As discussed above, HAMP and the GSE Standard Modification require servicers to use a waterfall to evaluate each loan that meets the eligibility requirements. These waterfall steps are clearly outlined and understood by all parties, which provides transparency in the evaluation process. Clear explanation of the waterfall steps to homeowners and investors helps set expectations for how the servicer will achieve lower payments, and the amount of payment reduction.

The MHA.gov website facilitates transparency and accessibility by making standardized application packages, evaluation tools, fraud prevention information, and other educational resources available to the public.<sup>xiv</sup> Homeowners are also able to access CheckMyNPV.com to assist in determining eligibility and to confirm the accuracy of a Net Present Value (NPV) denial.<sup>xv</sup> The GSEs provide public information and consumer education on loans, loss mitigation, and how to obtain assistance on their respective websites: KnowYourOptions.com for Fannie Mae, and FreddieMac.com. When homeowners apply for assistance, disclosing such information can help them understand the factors that servicers will consider in their application and what factors might make them ineligible for assistance. One possible option for the future would be to establish a new government website to serve as a central and official location for homeowners to find information about eligibility for all current loss mitigation options—including a way to validate eligibility—and a standard application, regardless of servicer or investor.

Another example of transparency includes clear communications with homeowners to help them understand the terms of their modifications. These communications should cover the amount by which a payment will be reduced and for how long, whether there will be a balloon payment at the end of the modification, and what other options are available if payment reduction is not possible. Homeowners should be able to work with a HUD-approved counseling agency or other trusted advisor to help them understand the terms of their modifications and other options.

Throughout the life of the crisis-era programs, the Agencies have collected—and to a certain extent made publicly available—performance data to measure the success of the programs. This has allowed the Agencies, independent researchers and others to study and report on the programs' outcomes. Continued study of the data from these programs can help identify areas for improvement under future programs and enable planning for future crises.

Some of the remaining considerations related to the use of data for future modification programs include:

- Whether other sources of data can help improve the loss mitigation process;
- Whether loan-level performance data should be made available for research purposes;

- How to protect the private information of homeowners seeking assistance;
- Whether there should be a government or industry standard for collecting and reporting future foreclosure prevention data, and if so, to whom that information would be reported;
- How to protect data ownership for those reporting their data through appropriate licenses and legal frameworks; and
- Whether a government agency should manage the collection of foreclosure prevention data to promote accountability.

## **Accountability**

Accountability refers to oversight of foreclosure prevention programs. A number of federal and state agencies have oversight responsibilities for the mortgage servicing industry and the loss mitigation process. One particular benefit to MHA/HAMP is that it crossed investor types and servicers—bank and non-bank—and provided a standard set of guidelines to which all were held accountable.

To promote accountability under MHA, Treasury implemented a robust compliance process. This includes loan level testing, as well as process and controls testing against defined MHA requirements. This approach provides comprehensive insight into how each servicer is implementing MHA programs—including whether the servicer is properly identifying, contacting, and evaluating potentially eligible homeowners—and the accuracy and timeliness of the MHA data reported by the servicer.

Moreover, public reporting of servicer performance through Treasury’s MHA Program Performance Report, and FHFA’s Foreclosure Prevention Report, facilitates accountability and has proven to be a useful tool in improving servicer performance.<sup>xvi, xvii</sup> The MHA Program Performance Report publishes detailed metrics on the MHA programs including assessments of the performance of servicers participating in the MHA program. The assessments include compliance ratings—which reflect servicers’ compliance with specific MHA guidelines—and program results—which reflect how timely and effectively servicers assist eligible homeowners and report program activity. FHFA monitors the GSEs’ individual Servicer Scorecards<sup>xviii</sup> on a quarterly basis. These types of scorecards should continue as they provide detailed metrics on servicer performance with respect to performing and non-performing loans. The scorecards can also help identify trends on how servicers perform compared to their peers.

The ability to escalate a case, either to MHA’s customer support centers or directly to Fannie Mae or Freddie Mac as the investors, also helps hold servicers accountable. These escalation centers provide homeowners with an avenue to dispute or raise concerns related to servicer activities, and to receive assistance with other application-related matters. They also provide timely resolution of homeowners’ issues by requiring servicers to respond within specified timeframes and tracking those responses at the servicer level.

## **THE PATH FORWARD**

Since 2009, there has been a positive trend of collaboration among government agencies, servicers, investors, and consumer advocates; all working diligently to stabilize the housing market and help struggling homeowners keep their homes following the financial crisis. More than ten million homeowners have received assistance from government and industry programs. In addition, the introduction of mortgage modification programs has led to new industry standards for loss mitigation.

With the retirement of MHA, the industry will shoulder more responsibility for assisting struggling homeowners through proprietary modifications and other loss mitigation programs. One of the most important things we have learned from the crisis-era efforts is that a collaborative process results in

better outcomes for all stakeholders. That lesson should not be forgotten, as the industry takes a more prominent role in defining the future of loss mitigation offerings. Further, the Agencies believe that, going forward, servicers, homeowners, and investors can all benefit from programs that incorporate the five key principles discussed in this paper: accessibility, affordability, sustainability, transparency, and accountability.

The progress in developing successful loss mitigations programs over the past seven years has been encouraging and has benefitted homeowners, servicers, and investors. We look forward to further evolution of home retention solutions and foreclosure alternative programs that will benefit all stakeholders.

To this end, the Agencies will continue engaging with the stakeholders—particularly mortgage servicers—as home retention and foreclosure alternative options are developed, with the goal of assessing how these new options will incorporate and further develop these core principles.

## **APPENDIX A: GLOSSARY OF TERMS**

**Debt-to-Income:** A comparison or ratio of gross income to housing and other expenses (or debts) the homeowner owes, generally, on a monthly basis.

**Deed:** A document that legally transfers ownership of property from one person to another. The deed is recorded on public record with the property description and the owner's signature. Also known as the title.

**Deed-in-Lieu of Foreclosure:** A foreclosure alternative in which the homeowner transfers all interest in a property to a lender/mortgagee to avoid foreclosure.

**Default:** If the mortgagor fails to make any payment or to perform any other obligation under the mortgage.

**Delinquency:** A period of time during which a borrower and a borrower's mortgage loan obligation are delinquent. A borrower and a borrower's mortgage loan obligation are delinquent beginning on the date a periodic payment sufficient to cover principal, interest, and, if applicable, escrow becomes due and unpaid, until such time as no periodic payment is due and unpaid.

**Delinquent:** The borrower's mortgage payment is due and not paid.

**Equity:** An owner's financial interest in a property which is calculated by subtracting the amount still owed on the mortgage loan(s) from the current market value of the property.

**Federal Housing Administration (FHA):** A government agency created to provide mortgage insurance on loans made by FHA-approved lenders through the United and its territories. FHA insures mortgages on single family and multifamily homes including manufactured homes and hospitals.

**FHA HAMP:** A program that allows mortgagees to offer modifications to FHA-insured mortgages to reduce a borrower's monthly mortgage payments and avoid foreclosure.

**Forbearance:** A temporary reduction or suspension of a mortgage payment without alteration of the obligation to repay the reduced or suspended amounts.

**Foreclosure Sale:** The legal process by which a property is sold and the proceeds of the sale applied to an outstanding mortgage debt. A foreclosure occurs when the loan becomes delinquent because payments have not been made or when the homeowner is in default for a reason other than the failure to make timely mortgage payments.

**Government Sponsored Enterprise (GSE):** Private organizations with government charters and backing. For example, Fannie Mae and Freddie Mac are GSEs. Fannie Mae and Freddie Mac own or guarantee mortgage loans. They have modification programs and requirements similar to MHA in addition to other loss mitigation programs.

**GSE HAMP:** A program that allows servicers to modify Fannie Mae or Freddie Mac owned or guaranteed mortgages with similar terms to HAMP Tier 1.

**GSE Standard Modification:** A modification program implemented under the FHFA Servicing Alignment Initiative designed for borrowers ineligible for GSE HAMP.

**GSE Streamlined Modification:** A modification program implemented under the FHFA Servicing Alignment Initiative that offers the same modification terms as the GSE Standard Modification without borrower income and hardship documentation.

**Home Affordable Modification Program (HAMP):** A loan modification program that provides homeowners the opportunity to modify their first lien mortgage loans to make them more affordable.

**HAMP Tier 1 Modification:** A modification program for first lien mortgages secured by principal residences that were originated on or before January 1, 2009 that is designed to lower monthly mortgage payments to a targeted housing DTI of 31 percent.

**HAMP Tier 2 Modification:** An extension to the original HAMP Modification Program (HAMP Tier 1). Through expanded eligibility criteria this also allows borrowers who did not meet the original HAMP Modification Eligibility criteria another opportunity to receive a HAMP Modification, generally, with terms similar to the GSE Standard Modification.

**Home Retention Options:** A loss mitigation solution available to a homeowner struggling to make a mortgage payment that allows the homeowner to stay in his or her home. Home retention options generally include HAMP or other types of loan modifications, forbearance or deferment, and repayment plans.

**Housing Counselor:** A professional who is trained to provide tools to current and prospective homeowners and renters so that they can make responsible choices to address their housing needs in light of their financial situations.

**Imminent Default:** A borrower who is current or less than 60 days past due on their mortgage payment and is experiencing a significant, documented reduction in income or some other hardship that will prevent them from making the next required mortgage payment during the month that it is due and where, without assistance, loss of the property is likely.

**Investor:** The owner(s) of the mortgage.

**Loss Mitigation:** The process of a homeowner and the servicer working together to devise a solution for avoiding foreclosure and mitigate an investor or guarantor's losses. Includes home retention options as well as foreclosure alternative programs, such as short sales or deeds-in-lieu of foreclosure.

**Modification:** A change made to the terms of a homeowner's loan. Loan modifications may include lowering the loan's interest rate, extending the term of the loan, moving from an adjustable to a fixed-rate loan, deferring some portion of the unpaid principal balance or unpaid monthly payments to the end of the loan, and/or forgiving some portion of the unpaid principal balance.

**Monthly Payment:** Refers to what you pay on a particular mortgage on a monthly basis for principal, interest, real estate taxes, property insurance and, if applicable, homeowners association fees. For mortgages modified under HAMP or other first-lien modification programs, it does not include any payments on your second mortgage.

**National Foreclosure Mitigation Counseling (NFMC):** A program launched in December 2007 with funds appropriated by Congress to address the nationwide foreclosure crisis by dramatically increasing the availability of counseling for families at risk of foreclosure.

**Negative Equity:** The condition of an owner's financial interest in a property is negative due to the amount owed on the mortgage loan(s) is greater than the current market value of the property.

**Net Present Value (NPV):** Net present value (NPV) refers to the value today of a cash-generating investment, such as a bond or a mortgage. When investors are faced with two alternative investment options, they prefer the one that has a higher net present value. In the context of a distressed mortgage, the investment options an investor faces is whether to modify a mortgage or leave as is, the latter of which may result in either repayment in accordance with the original terms or foreclosure.

**Principal Forbearance:** A portion of the principal of a loan that is non-interest bearing and non-amortizing. The amount of principal forbearance normally results in a balloon payment fully due and payable upon the earliest of the borrower's transfer of the property, payoff of the interest bearing unpaid principal balance, or at the maturity of the mortgage loan.

**Principal Reduction:** A portion of the principal of the loan that is forgiven as part of a modification to the loan. The reduction can be applied at the outset of the modification or provided in installments over a period of time. It can be used in addition to, or as a replacement for, principal forbearance to achieve payment reduction for the borrower.

**RD-HAMP:** An MHA program that provides borrower and servicer incentives for the modification of certain mortgage loans under the Rural Housing Service's Special Loan Servicing that result in sustainable mortgage payments.

**Repayment Plan:** A home retention option in which the homeowner and servicer agree to a schedule for past due amounts to be paid in addition to paying the regularly scheduled mortgage payments over a period, generally, up to twelve months in duration, which could be extended as necessary.

**Resolved Hardship Modification:** Borrowers with a resolved hardship (e.g., a Federally Declared Disaster) are provided the opportunity to modify the loan through incremental term extension to achieve the pre-disaster monthly mortgage payment.

**Seriously Delinquent:** A homeowner mortgage payment status in which the homeowner is generally at least 90 days or more past due on his or her mortgage payment.

**Servicer:** A firm that works on behalf of a mortgage investor in support of a mortgage, including collecting payments, ensuring payment of real estate taxes and insurance premiums, managing escrow accounts, managing communications with the homeowner, and negotiating loss mitigation options or foreclosure when necessary.

**Short Sale:** A loan workout program wherein the lender accepts the proceeds from the sale of a property securing the mortgage to a third party for less than the total amount of the unpaid balance of the loan. Generally, the remaining debt is forgiven.

**Single Point of Contact (SPOC):** The single individual or team of individuals at the servicer organization who is responsible for serving as the homeowner's contact point through the entire process of seeking help with his or her mortgage. Also known as a relationship manager.

**Servicing Alignment Initiative (SAI):** A program led by the FHFA to establish consistent policies and processes for the servicing of delinquent loans owned or guaranteed by Fannie Mae and Freddie Mac.

**Streamline HAMP (non-GSE):** A HAMP modification option similar to HAMP Tier 2 that provides seriously delinquent homeowners the opportunity to receive a modification with no income documentation and reduced hardship documentation.

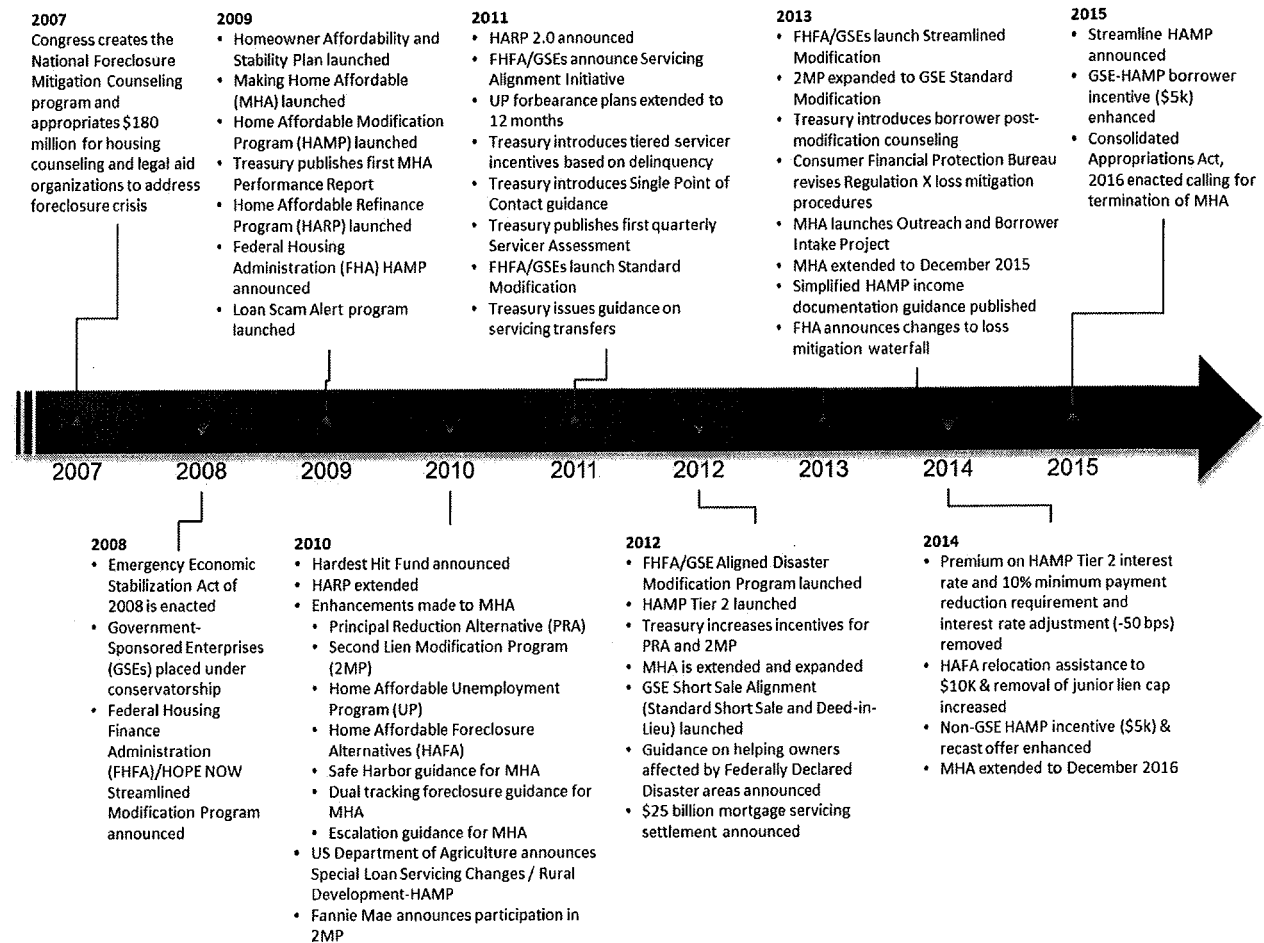
**Underwater:** The condition of having negative equity or owing more on the property than the property is worth.

**Treasury FHA HAMP:** An MHA program that provides borrower and servicer incentives for the modification of certain mortgage loans under FHA-HAMP that result in sustainable mortgage payments.

**VA HAMP:** A program that allows homeowners to modify their Department of Veteran's Affairs insured or guaranteed mortgages.



# APPENDIX B: TIMELINE OF GOVERNMENT-SPONSORED FINANCIAL CRISIS EFFORTS



## APPENDIX C: MODIFICATION PROGRAMS BY AGENCY

Please Note: The chart below includes additional information regarding the loss mitigation options discussed in this report. This is not an exhaustive list of all programs administered by the Agencies.

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### The U.S. Department of Agriculture

**Rural Development (RD) / Special Loan Servicing**  
Continues past December 2016

A program to provide eligible borrowers with sustainable mortgage payments through modification of RD-guaranteed first lien mortgage loans. This program provides borrowers with affordable monthly mortgage payments tied to a percentage of their monthly gross income and requires the borrower to complete a trial payment plan before the loan is permanently modified.

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### The Federal Housing Finance Agency

**HAMP Tier 1 (GSE)**  
Expires December 2016

Modification program for homeowners who (1) have mortgages insured or guaranteed by the GSEs; (2) not previously had their mortgages modified through HAMP; (3) are in delinquency or in imminent default; (4) have single family principal residences; and (5) have monthly mortgage payment ratios above 31 percent.

**GSE Standard Modification**  
Continues past December 2016

An aligned GSE product designed for borrowers ineligible for HAMP. This program applies to borrowers who (1) are at least 60 days delinquent or less than 60 days if determined for Imminent Default; (2) have properties that are not condemned or abandoned; (3) have eligible hardships; and (4) have completed Borrower Response Packages, including verified income and hardship documentation.

**GSE Streamlined Modification**  
Continues past December 2016

Modification program that does not require income or hardship documentation for homeowners who (1) are 90 or more days delinquent (or 60 or more days delinquent on a HAMP Modification with a step-rate feature); (2) have properties that are primary residences, second homes, investment properties, vacant or condemned properties; and (3) have not previously defaulted or failed a Trial Period Plan with similar terms.

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### The U.S. Department of Housing and Urban Development

**FHA-HAMP**  
Continues past December 2016

A program that allows mortgagees to modify the FHA-insured first lien mortgage loan for eligible borrowers that results in sustainable mortgage payments. This program results in borrowers receiving affordable monthly mortgage payments tied to a percentage of their monthly gross income and requires the borrower to complete a trial payment plan before the loan is permanently modified.

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**The U.S. Department of the Treasury**

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**HAMP Tier 1 (non-GSE)**  
**Expires December 2016**

Modification program for homeowners who (1) have mortgages not insured or guaranteed by the GSEs; (2) have not previously had their mortgages modified through HAMP; (3) are in delinquency or in imminent default; (4) have single family principal residences; and (5) have monthly mortgage payment ratios above 31 percent.

**HAMP Tier 2 (non-GSE)**  
**Expires December 2016**

Modification program for homeowners who (1) have mortgages not insured or guaranteed by the GSEs; (2) are not eligible for HAMP Tier 1; (3) have not received a modification under HAMP Tier 2; (4) have mortgages secured by principal residences or rental properties; and (5) are delinquent or in imminent default.

**Streamline HAMP (non-GSE)**  
**Expires December 2016**

Modification program that does not require income documentation and reduced hardship documentation for homeowners who (1) have mortgages not insured or guaranteed by the GSEs; (2) have mortgages secured by principal residences or rental properties; (3) are delinquent; (4) have received a previous solicitation for HAMP; and (5) have experienced a change in circumstances if they received Tier 1 or Tier 2 modifications.

**Treasury FHA-HAMP and RD-HAMP**  
**Expires December 2016**

If the FHA-insured or RD-guaranteed mortgage loan meets Treasury's eligibility criteria, the borrower and servicer are eligible for Treasury incentives.

**Second Lien Modification Program (2MP)**  
**Expires December 2016**

A program designed to work in tandem with HAMP and the GSE Streamlined Modification to offer borrowers with second mortgage liens even greater affordability. Under 2MP, when a borrower's first lien is modified and the servicer of the second lien is a 2MP participant, that servicer must offer to modify the borrower's second lien according to a defined protocol and/or to accept a lump sum payment from Treasury in exchange for full or partial extinguishment of the second lien.

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**Department of Veteran's Affairs**

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**VA-HAMP**  
**Continues past December 2016**

A modification program for homeowners who have mortgages insured by the Department of Veteran's Affairs.

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## APPENDIX D: ENDNOTES

<sup>i</sup> U.S. Department of Housing and Urban Development, April 2016 National Scorecard. Available at [http://portal.hud.gov/hudportal/HUD?src=/initiatives/Housing\\_Scorecard](http://portal.hud.gov/hudportal/HUD?src=/initiatives/Housing_Scorecard).

<sup>ii</sup> Ioan Voicu, Vicki Been, Mary Weselcouch, and Andrew Tschirhart, "Loan Modifications: What Works," (2013). Available at <http://furnancenter.org/files/LoanModificationsWhatWorksNovember2013.pdf>.

<sup>iii</sup> Eric Baumer, Kevin Wolff, and Ashley Arnio, "A Multicity Neighborhood Analysis of Foreclosure and Crime," (2012). Available at [https://www.researchgate.net/profile/Ashley\\_Arnio/publication/262001722\\_A\\_multicity\\_neighborhood\\_analysis\\_of\\_foreclosure\\_and\\_crime/links/548f12390cf214269f263556.pdf](https://www.researchgate.net/profile/Ashley_Arnio/publication/262001722_A_multicity_neighborhood_analysis_of_foreclosure_and_crime/links/548f12390cf214269f263556.pdf).

<sup>iv</sup> Ioan Voicu, Vicki Been, Mary Weselcouch, and Andrew Tschirhart, "Loan Modifications: What Works," (2013). Available at <http://furnancenter.org/files/LoanModificationsWhatWorksNovember2013.pdf>.

<sup>v</sup> 12. U.S.C. §§ 5201, et seq. (2012)

<sup>vi</sup> Section 709(b) of the Consolidated Appropriations Act, 2016, signed into law on December 18, 2015, provides that the MHA Program will terminate on December 31, 2016, except with respect to certain loan modification applications made before such date. Pub. L. No. 113-235 (2015).

<sup>vii</sup> Various terms were used to distinguish HAMP by investor, insurer or guarantor. Treasury HAMP refers to the program guidelines issued by Treasury via Supplemental Directives for loans owned by private investors. For loans guaranteed by the GSEs, the general term is GSE HAMP. Loans insured by the FHA are covered by FHA-HAMP and Treasury FHA-HAMP. Loans guaranteed by the USDA's Rural Housing Service are covered by guidelines under the Special Loan Servicing program and RD-HAMP. And finally, VA HAMP covers loans guaranteed by the U.S. Department of Veterans Affairs.

<sup>viii</sup> 12 C.F.R. 1024.41(h). A copy of the final rule is available at:

[http://files.consumerfinance.gov/f/201301\\_cfpb\\_final-rule\\_servicing-respa.pdf](http://files.consumerfinance.gov/f/201301_cfpb_final-rule_servicing-respa.pdf).

<sup>ix</sup> Additional information on NFMCC is available at: [http://www.neighborworks.org/Homes-Finances/Foreclosure/Foreclosure-Counseling-\(NFMCC\)](http://www.neighborworks.org/Homes-Finances/Foreclosure/Foreclosure-Counseling-(NFMCC))

<sup>x</sup> The Homeowner's HOPE™ Hotline at 888-995-HOPE™ is a counseling service provided by the Homeownership Preservation Foundation (HPF). HPF was founded by a coalition of mortgage servicers and HUD-approved housing counseling agencies. HPF established and continues to operate the toll-free phone resource for homeowners who are having trouble making their mortgage payments. HOPE™ Hotline counselors are HUD-approved and specifically trained in foreclosure prevention options. When Treasury was looking for a way to make information about MHA available to the public, it recognized the important resource that HPF provided and contracted with HPF to expand the HOPE Hotline to include screening for MHA eligibility.

<sup>xi</sup> OCC Mortgage Metrics Report 3<sup>rd</sup> Quarter 2015, p. 37.

<sup>xii</sup> Kenneth M. Temkin, Neil S. Mayer, Charles A. Calhoun, Peter A. Tatian, and Taz George, "National Foreclosure Mitigation Counseling Program Evaluation: Final Report, Rounds 3 Through 5," (2014), The Urban Institute. Available at

[http://www.neighborworks.org/HomesFinances/Foreclosure/Foreclosure-Counseling-\(NFMCC\)/Urban-Institute-Evaluation](http://www.neighborworks.org/HomesFinances/Foreclosure/Foreclosure-Counseling-(NFMCC)/Urban-Institute-Evaluation)

<sup>xiii</sup> The Housing Scorecard is available at

[http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2016/HUDNo\\_16-102](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-102)

<sup>xiv</sup> Fraud prevention information is available at <https://www.makinghomeaffordable.gov/get-answers/pages/get-answers-how-avoid-scams.aspx>

<sup>xv</sup> Eligibility requirements under the MHA program require servicers to conduct an NPV test before making a final decision about whether to modify a mortgage under HAMP. Treasury posted information

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about the Treasury HAMP Net Present Value (NPV) Model publicly on its website and created an online tool—[CheckmyNPV.com](http://CheckmyNPV.com)—that allows homeowners to estimate their own NPV outcome. Treasury also publicly posted detailed information about the model itself for servicers, investors and the general public. The model calculates the total discounted future cash flows for a modified loan as compared to the total discounted future cash flows for the unmodified loan.

<sup>xvi</sup> The archive of MHA Program Performance Reports is available at

<https://www.treasury.gov/initiatives/financial-stability/reports/Pages/Making-Home-Affordable-Program-Performance-Report.aspx>

<sup>xvii</sup> The archive of FHFA Foreclosure Prevention Reports is available at

<http://www.fhfa.gov/DataTools/Pages/Data-Reports>

<sup>xviii</sup> Freddie Mac Servicer Scorecards are available at

[http://www.freddiemac.com/singlefamily/service/servicing\\_success\\_program.html](http://www.freddiemac.com/singlefamily/service/servicing_success_program.html)

Fannie Mae Servicer Scorecards are available at

<https://www.fanniemae.com/singlefamily/star>

ONE VOICE. ONE VISION. ONE RESOURCE.



# “One Mod.” Principles for Post-HAMP Loan Modifications

Produced by The Future of Loss Mitigation Taskforce

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# 1. Executive Summary

During the financial crisis, the Treasury Department established the Home Affordable Modification Program (HAMP) to attempt to systemize loss mitigation procedures and standardize the relief available to consumers through loan modifications. Millions of homeowners were able to access the program from 2009 to the present and now HAMP is winding down and will terminate at the end of 2016. After HAMP terminates, there will be a need for servicers to be able to provide loss mitigation under a cohesive framework. A unified framework is preferable because it offers clarity and predictability to both servicers and consumers, equitable outcomes that do not vary based on the particular government insurer or guarantor, and provides servicers with a single program to administer.

An MBA Task Force including over 35 members and 20 companies convened to draw upon the experiences of the financial crisis and HAMP to formulate universal principles that should be applied to a future loss mitigation program.

The MBA Task Force came to the conclusion that the successor to HAMP should also be a relatively universal program – One Modification or “One Mod.” “One Mod” incorporates four guiding themes that drive successful loss mitigation.

- **Accessibility:** The successor to HAMP should be accessible to as many consumers as possible.
- **Affordability:** It should result in affordable relief for eligible customers.
- **Sustainability:** It should be sustainable over the long-term to avoid re-default.
- **Transparency:** It should be easy-to-understand and transparent in both its process and how any outcomes are determined.

From these four guiding themes, the Task Force developed 10 core principles:

1. Eliminate “gaps” that consumers can fall through.
2. Only require the consumer submit documentation that is directly related to their eligibility for the modification.
3. Produce a positive outcome for the investor.
4. Result in a decrease in mortgage payments for the consumer immediately following modification.
5. Distinguish between short-term hardships and longer-term hardships.
6. Use waterfall of options and loss mitigation solution that are based on criteria that have a clear impact on re-default rates.
7. Provide a solution that maximizes the relief that the consumer is eligible for in the first loss mitigation offer.
8. Offer home retention and liquidation options at the same time.
9. When a term extension is utilized, educate the consumer about how additional money applied to monthly payments can change the amortization schedule.
10. Provide clear disclosure to the consumer of their loss mitigation options and the rationale for the selected loss mitigation option presented to the consumer.



The need for a loan modification to provide meaningful payment relief was paramount among all the lessons learned from the large volume of loan modifications during the crisis. The Task Force developed a "One Mod" waterfall proposal that offers deep payment relief for customers and a positive economic outcome for investors:

**TABLE 1: "ONE MOD" WATERFALL PROPOSAL**

<b>TARGET</b>	The largest economically positive payment reduction. OCC Data suggests that 20% is an appropriate benchmark.
<b>STEP 1</b>	Capitalize arrearages.
<b>STEP 2</b>	Reduce interest rate to the lower of market rate or current rate. For ARMs, convert to a 30 year term at market rate. For step-rate modifications, convert to the lower of the prior rate cap or the market rate.
<b>STEP 3</b>	Extend term to 480 months. <sup>i</sup> Provide consumer with amortization tables demonstrating how to payoff mortgage in different amounts of time.
<b>STEP 4</b>	Provide principal forbearance/forgiveness to 100% LTV (with a cap at 30% of UPB). <sup>ii</sup>  Offer modification if the P&I payment reduction is 20% or greater and HTI is less than 40%.
<b>STEP 5</b> (if necessary)	If payment reduction is less than 20% <sup>iii</sup> or HTI is greater than 40%, provide principal forbearance/forgiveness until either 80% LTV, 30% of UPB or the payment reduction of 20% and <40% HTI requirement is achieved.
<b>STEP 6</b> (if necessary)	Offer modification as long as post-modification payment is less than or equal to pre-modification payment.

■ Pre 90+ DQ Steps      ■ Pre 90+ DQ Steps and Post 90+ Streamline Steps

- i. This presumes that 480 months is available as the maximum term. In situations where that is not currently available as a maximum term, a 360 month term should be utilized.
- ii. As noted above, forbearance could be replaced by principal forgiveness should an investor choose to do so. MBA would not suggest using principal forgiveness in instances where an investor or guarantor will not provide reimbursement.
- iii. Step 5 may also be offered in the streamlined waterfall, but only with regards to the 20% payment reduction target.

The waterfall is split between pre-90 days delinquent (DQ) and post-90 day DQ to ensure that consumers get both the relief that is needed and a meaningful chance to save their home, in both cases targeting and often exceeding a 20% payment reduction. Prior to 90 days DQ a servicer would evaluate a consumer to 31% housing ratio (PITIA payment relative to income) in order to determine whether the housing payment was truly unaffordable or whether counseling or short-term forbearances are a more appropriate solution in light of the hardship. The modification would also feature an incentive to engage early in the process and an additional check for sustainability by evaluating the modification to a 40% housing ratio at this stage since the consumer has proactively engaged and provided income documentation.

After 90 days DQ, the consumer would be offered a streamlined modification solution to access loss mitigation and possibly remain in their home. The streamlined approach is appropriate because (1) by this point in the delinquency, the consumer has not responded to multiple outreach requests required by the new federal servicing rules and the streamline approach offers a simplified and less burdensome process to customers that may be otherwise unwilling to engage with their servicer, and 2) industry data suggest that streamlined modifications perform similarly to underwritten modifications when controlling for other factors.

## 2. Background

Multiple loss mitigation programs were established by the federal government following the financial crisis and the ensuing waves of mortgage defaults. The U.S. Department of Treasury Making Home Affordable (MHA) program's Home Affordable Modification Program (HAMP) is the most prominent of these programs. HAMP has resulted in over 1.5 million permanent loan modifications as of December 31, 2015.<sup>1</sup> These programs are set to sunset on December 31, 2016.

There were two primary motivations resulting in the creation of these mortgage modification programs. The first was to create government incentives designed to encourage investors to try and keep as many homeowners in their homes as possible with net present value positive modifications during a severe economic down turn. The second was due in part to "predatory" lending practices that placed some consumers in loans that were inappropriate or unaffordable over the long-term. The government loss mitigation incentives — particularly for private-label securities — were intended to provide relief to these consumers and place them into loans that were more appropriate for their financial condition and facilitated long-term homeownership.

The financial crisis led to millions of loans entering the loss mitigation process and these programs led to industry-wide consideration about how to best provide mortgage relief to consumers through loss mitigation programs. On the eve of the expiration of the MHA programs, MBA, the Department of Treasury, FHFA, the CFPB, consumer advocates and other stakeholders have all expressed a desire to determine what, if anything, should replace the HAMP loss mitigation programs. It is important to remember that the GSEs and other investors or government guarantors will continue to have loss mitigation programs that authorize loan modifications following the expiration of HAMP. To that end, MBA convened a Task Force to develop guiding

principles for these post-crisis loss mitigation programs and to further develop and recommend to regulators and investors one loan modification that can be used across multiple investors and guarantors.

Lessons learned and data analyzed from the financial crisis suggest that a modification that targets a payment reduction will offer consumers the most impactful relief when delivered early in the delinquency. A standard or universal modification is also an important step towards eliminating delays and confusion over loss mitigation options. Creating a standard modification product or adoption of universal principles will confer benefits to consumers and the investors, guarantors and insurers of the underlying mortgages. These entities determine the ground rules for modification of mortgages included in mortgage-backed securities based on their particular interest.

For consumers, a standard universal modification process with reduced or minimal documentation requirements will eliminate confusion and simplify the document collection and submission process that can lead consumers needing assistance to fall out of the loss mitigation process. For servicers, it increases efficiency and reduces default servicing costs by creating modification sustainability supported by streamlined and reasonably tailored diligence.

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1. SIGTARP Quarterly Report to Congress, January 27, 2016. Table 4.11, pg. 109.

# 3. The Current State of Mortgage Modifications

In order to work towards a common modification, it is important to understand the current landscape of mortgage modifications and required loss mitigation waterfalls that servicers must work through to offer a modification solution. Each loss mitigation program has different and voluminous rules, handbooks and guidance that must be followed by servicers and investors. Indeed, a persistent difficulty with modifications during the financial crisis has been with continually changing program requirements and the overall complexity of the various loss mitigation waterfalls.

For instance, HAMP's Supplemental Directive Archive contains 75 supplemental directives issued between 2009 and 2015.<sup>2</sup> These policies changes were often welcome and necessary, but implementation was made more challenging by the frequent need to adjust program requirements in near real-time. This experience also demonstrates the wisdom of developing an efficient and effective HAMP successor program ahead of any potential future housing downturn that will not require as many sudden corrections and changes.

These programs have resulted in a large number of mortgage modifications and a relatively robust data set to derive conclusions about what features in modifications are particularly effective and what factors can drive consumer fall-out and re-default on their mortgages. While servicers have had to make adjustments to implement guidance in real time, the challenge of completing applications has continued to be an issue for consumers, often and unfortunately resulting in loss mitigation denials. As demonstrated in the table below, a full quarter of HAMP denials are due to an incomplete request:

2. Available at <https://www.hmpadmin.com/portal/programs/guidance.jsp>. Accessed May 13, 2016.

**TABLE 2: TOP 3 HAMP DENIAL REASONS OVER THE LIFE OF THE PROGRAM, AS OF APRIL 2015\***

REASON	REASON DEFINITION	ASSOCIATED DENIALS	PERCENTAGE OF DENIALS
Request Incomplete	Homeowner requested a modification under the MHA program but did not provide the financial and/or hardship verification documentation required to complete the evaluation of their request in a timely manner.	1,017,730	25%
Current DTI Less Than 31%	Under HAMP Tier 1, homeowner's current monthly housing expense is less than or equal to 31% of their gross monthly income (i.e. monthly income before taxes and other deductions).	730,231	18%
Offer Not Accepted by Consumer/ Request Withdrawn	Homeowner withdrew their modification request for consideration for either a Trial Period Plan or HAMP modification or did not accept either a Trial Period Plan or a HAMP modification offer. Failure of homeowner to make the first trial period payment in a timely manner is considered non-acceptance of the Trial Period Plan.	531,521	13%

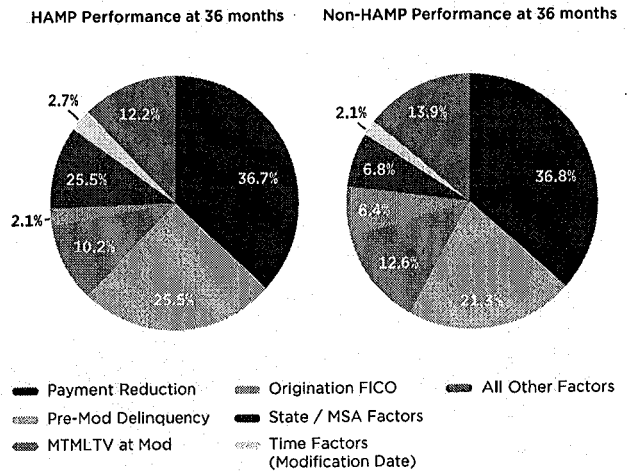
\* This chart is a reproduction of Table 3.2 in SIGTARP's July 29, 2015 Quarterly Report to Congress. SIGTARP cited sources: Treasury, "HAMP 1MP: Trial Fallout and Denials - Servicer, Vintage & Reason," April 2015, accessed 6/5/2015; Treasury HAMP data; Treasury, "Making Home Affordable Data File User Guide V8.0," February 2, 2015. The full table is available as Appendix Table 1.

In addition to gaining information about the necessity of easily accessible and implementable programs, significant research has been done to discuss what works in loss mitigation offers and leads to longer-term sustainable performance. A recent Fannie Mae study isolated payment reduction and length of delinquency as the primary drivers of modification performance:<sup>3</sup>

Fannie Mae's data mirrors industry data that has found that payment reduction is the most significant driver of modification performance over time. If the goal is to keep the consumer in their home, providing meaningful payment relief is one of the most useful tools to consider.

3. Scott, Walter. "Treatment Effects of Subprime Mortgage Modifications Under the Home Affordable Modification Program." Page 28, March 2015.

**FIGURE 1. ANALYSIS OF VARIANCE,  
2010 HAMP AND NON-HAMP MODIFICATIONS**



# 4. MBA's Solution: The One Modification ("One Mod") Tool-Kit

## GUIDING PRINCIPLES

Before crafting a concrete solution, it is important to identify the fundamental themes underlying a modification regime that satisfies regulators and provides meaningful and impactful relief for both consumers and investors. In order for a modification program to be successful, it should aim to maximize the number of consumers that are able to qualify and receive assistance. This is the principle of accessibility, and the experience of the financial crisis has shown that accessibility can be increased by reducing difficult-to-understand barriers for customers receiving a modification. Another key consideration is the ability of consumers who receive a modification to remain in their homes long term in accordance with modified terms. This sustainability principle is best achieved by ensuring the modification product is responsive to the lessons of the crisis and addresses the key drivers that lead to sustainable performance. Together, it is a relatively simple equation: **accessibility x sustainability = number of homes saved.**

Industry discussions around the lessons learned from the crisis have identified a consensus centered on four basic principles — accessibility, affordability, sustainability, transparency — that should guide efforts to develop future loss mitigation programs.

### ACCESSIBILITY

In order to provide broad benefits, any future mortgage modification program will need to be available to a wide variety of consumers in distress. At its most basic level, accessibility equals simplicity. The modification process, eligibility requirements and terms of modification offers should be easily understandable to struggling consumers who are likely to be stressed about other financial issues, overwhelmed by changes in personal circumstances and/or possess differing levels of general and financial education. Excessive investor or guarantor stratification of

modification programs or complex eligibility requirements has been shown to erect unnecessary barriers to entry for consumers into modification programs.

It is also necessary to understand that consumer accessibility will turn on designing a program that will have widespread investor or guarantor acceptance and participation. Loss mitigation is, after all, about creating solutions that encourage investors to mitigate their losses by pursuing options other than foreclosure.

Any future programs will also be operating in an environment where all mortgages are required by law to be underwritten with documentation demonstrating that the consumer has a reasonable ability to repay the loan. Given this starting point, unduly complex or uneconomic loan modification requirements will reduce consumer eligibility.

To help ensure a future loss mitigation solution is accessible to consumers, MBA believes a future loss mitigation modification program should:

- Eliminate “gaps” that consumers can fall through.

Currently there are gaps that can lead to a consumer being unable to receive timely loss mitigation assistance because, for instance, they make too much for a forbearance plan yet do not have sufficient income for a permanent loan modification. These gaps should be eliminated and would be in the procedure outlined below by focusing on identifying and assessing consumer hardship and offering quick relief using reasonable, limited documentation or a streamlined modification.

- Only require the consumer to submit documentation that is directly related to their eligibility for the modification.

Failure to return documentation or complete a loss mitigation package has been a persistent source of consumer fall-out. This is demonstrated by the fact that the top denial reason for HAMP — resulting in a quarter of all denials — is failure to complete an application. Complex underwriting formulas or burdensome document requirements undoubtedly play a part in the lack of completed HAMP applications. The “paper chase” for complete documentation is exacerbated by different requirements across guarantors/ investors or different document requirements due to variations in waterfalls. Neither consumers nor servicers are well-served by requiring documentation that is not directly relevant to the final modification offering. This should be minimized by only requiring documentation relevant to the proposed loss mitigation solution.

- Produce a positive outcome for the investor.

Seeking a positive loss mitigation outcome for the investor is crucial to the success of a loan modification regime. It helps ensure continued availability of credit through a liquid mortgage market. While investors may have different methodology and calculations of NPV, ensuring that the underlying economics of the modification work for both the consumer and the investor is necessary for ensuring that a relatively universal solution can emerge, offering simplicity for consumers and efficiency for servicers. A well-designed program with properly calibrated economics will result in incentive alignment as sustainable modifications and re-performing loans represent the best outcome for all parties.

## **AFFORDABILITY**

A loan modification that does not provide the consumer with an affordable solution simply delays future problems

or leads to a reoccurrence of delinquency. A solution that is not responsive to the consumer’s underlying hardship or and is unaffordable for the consumer also reduces the chance a consumer would accept the offered solution, resulting in discouragement for the consumer and lost time for both the consumer and servicer.

In order to help ensure affordability, MBA believes a future loss mitigation modification program should wherever possible:

- Result in a decrease in mortgage payments for the consumer immediately following modification.
- Distinguish between short-term hardships and longer-term hardships.

A forbearance and repayment plan may be more appropriate for some consumers suffering a short-term hardship such as temporary unemployment or an injury or illness resulting in a temporary diminution in income. For those with a longer-term hardship or permanent change in circumstances, a permanent mortgage modification would be the desired outcome. A future loss mitigation program should screen for anticipated hardship duration and provide options accordingly.

Any future loss mitigation program should take into account that repayment plans and forbearances are only likely to be effective for short-term hardships.

## **SUSTAINABLE PERFORMANCE**

A loan modification should aim to place the consumer in a loan that is affordable in the long term. While there may be future changes in circumstances that may require additional evaluation, the modification offered should contemplate providing sufficient relief to the consumer to avoid re-defaults or future loan modifications. In order to ensure sustainable performance, MBA believes a future loss mitigation modification program should:

- **Use waterfall of options and loss mitigation solutions that have a clear impact on re-default rates.**

The financial crisis has provided a wealth of data on the sustainability of various loan modifications and methods of providing consumer relief. The OCC made that clear in their OCC’s 2015 Q2 *Mortgage Metrics*, where they observed on page 39: “[m]odifications that reduced monthly principal and interest payments by at least 10 percent consistently performed better than modifications that reduced payments by less than 10 percent. Modifications with the greatest decrease in monthly payments consistently had the lowest re-default rates.”

Any future program should leverage this knowledge to construct a loss mitigation solution and associated waterfall that incorporates this data to provide the most sustainable relief for the consumer and efficient outcome for the investor.

The chart on the right demonstrates the average re-default rates by time period for loan modifications by payment reductions from data reported in the OCC's 2015 Q3 *Mortgage Metrics*. This data makes clear that payment reduction is a **significant driver** of modification sustainability. This becomes even clearer when looking at 60+ delinquency rates at six months by vintage, which can be found in the appendix as Appendix 2.

- Provide a solution that maximizes the relief that the consumer is eligible for in the first loss mitigation offer.

Providing deep relief up front should lower re-default rates and reduce the need for future loss mitigation solutions. Providing the best option first also adds transparency. The process is clear and unambiguous. Additionally, housing counselors and other consumer advocates can confidently attest it is the best option.

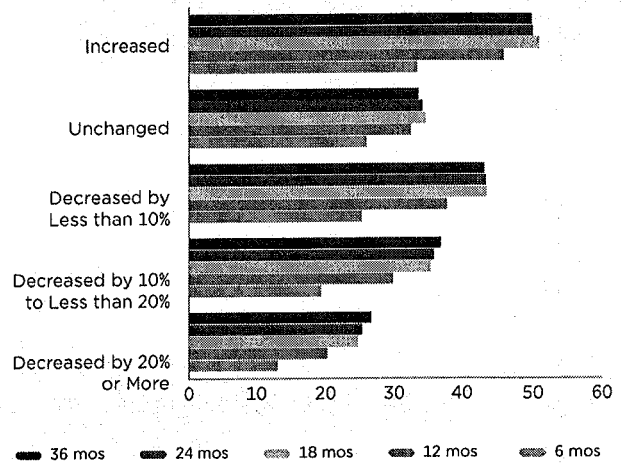
Providing a solution that maximizes relief that the consumer is eligible for will not always mean that a loan modification is viable for every consumer and every particular hardship. One way to tailor additional relief and reward early (<90DPD) engagement is by implementing a post modification housing ratio target. This would require less burdensome documentation requirements while also providing a rough measure of whether the modified housing payment is sustainable for a consumer.

In some cases the modification waterfall may result in an offer that is payment neutral or does not feature significant payment reduction. In those instances servicers may offer the modification to allow the consumer the option to retain the home. A referral to counseling here can help a consumer understand whether such a modification is sustainable and how to best structure their budget and finances to keep the home.

**TRANSPARENCY**

A consumer is more likely to accept a loss mitigation option that they understand. Providing basic and easy to understand information about the options available to the consumer and the rationale for loss mitigation decisions

**FIGURE 2. AVG RE-DEFAULT (60+ DQ) BY MOD PAYMENT REDUCTION (2008-2015)**



will result in more informed engagement and participation. The MBA believes the following tenets create such transparency:

- Offer home retention and liquidation options at the same time.
- When a term extension is utilized, educate the consumer about how additional money applied to monthly payments can change the amortization schedule.
- Provide clear disclosure to the consumer of their loss mitigation options and the rationale for arriving at the selected loss mitigation option presented to the consumer.

CFPB regulations require that a servicer evaluate a consumer for all available loss mitigation options that they are eligible for once the servicer has received a complete loss mitigation request for assistance. The servicer should lead with the modification that presents the optimal available modification to the consumer and the calculations used to derive that result. The consumer should be aware of the inputs and outputs utilized to make the loss mitigation decision.

# 5. The “One Mod” Tool-Kit

MBA has developed a loan modification solution that adheres to both the guiding universal principles discussed above and the associated 10 tenets for effective future loss mitigation.

A future loss mitigation solution should be:

<b>ACCESSIBLE</b>	<p>Eliminate “gaps” that consumers can fall through</p> <p>Only require the consumer submit documentation that is directly related to their eligibility for the modification</p> <p>Produce a positive outcome for the investor</p>
<b>AFFORDABLE</b>	<p>Result in a decrease in mortgage payments for the consumer immediately following modification</p> <p>Distinguish between short-term hardships and longer-term hardships</p>
<b>SUSTAINABLE</b>	<p>Use waterfall of options and loss mitigation solution that are based on criteria that have a clear impact on re-default rates</p> <p>Provide the most relief that the consumer is eligible for in the first loss mitigation offer</p>
<b>TRANSPARENT</b>	<p>Offer home retention and liquidation options at the same time</p> <p>When a term extension is utilized, educate the consumer about how additional money applied to monthly payments can change the amortization schedule</p> <p>Provide clear disclosure to the consumer of their loss mitigation options and the rationale for arriving at the selected loss mitigation option presented to the consumer</p>

MBA believes that a “light document” modification for early delinquencies and streamlined process for 90+ delinquencies is the best way to effectuate these principles. “One Mod” is designed to provide the best offer to the consumer first and is based on universal principles derived from industry data of what modification solutions provide sustainable relief for consumers. It also hopes to provide a framework for a unified loss mitigation regime across government guarantors and insurers. Please see the attached process flow below for more details on how One Modification would work.

It is important that any future modification product provides meaningful relief to consumers, mitigates losses for investors to ensure that the mortgage market remains liquid and stable, is predictable and can be implemented by all types of servicers—large and small. It is also important that these outcomes be achievable across multiple economic cycles, interest rate environments and micro/macro housing market conditions. Finally, this solution, like all loss mitigation, depends on a positive economic outcome for the investor or guarantors.

In order to meet these diverse objectives, MBA believes the future modification solution should target meaningful payment relief as the goal while considering loan-to-value (LTV) ratios. Incorporation of LTV means that the “One Mod” solution will provide **more relief** where a customer may have fewer options (negative/no equity) and where the local or regional housing market is more distressed. It also results in increased consumer accessibility due to the likelihood of positive economic outcome. Loans with higher LTVs often result in higher losses to investors, thus there is more “economic” cushion to provide additional assistance. Finally, since LTV addresses both customer and investor considerations, the program is conditioned to provide more assistance in down turns in the housing markets, thus making it stable, predictable and scalable for servicers to implement.

Our proposed “One Mod” is intended to be easy for the consumer to access and requires limited document collection to reduce the burden on the consumer. Before the consumers is 90 days delinquent, the servicer will evaluate the consumer to a minimum 31% housing ratio to determine



if the consumer is eligible for the modification or should instead be offered short term alternatives or housing counseling. Consumers above the 40% housing ratio target may be eligible for additional relief at this point in the process. These consumers may be offered the modification and referred to housing counseling for education around the implications of the relief offered by the modification and whether this is sustainable given the consumer's general financial situation.

The following chart itemizes some of the ways that the proposed "One Mod" waterfall implements the themes discussed above:

<b>ACCESSIBILITY</b>	<ul style="list-style-type: none"> <li>• Has manageable documentation requirements</li> <li>• Has streamlined option to reach as many consumers as possible</li> <li>• Will provide an offer as long as it offers payment relief or is payment neutral</li> </ul>
<b>AFFORDABILITY</b>	<ul style="list-style-type: none"> <li>• Targets 20% payment reduction</li> <li>• Fixed nature of first 4 steps ensures most consumers gets significant relief</li> <li>• Provides deeper LTV-based relief in some instances to be responsive to regional economic events</li> </ul>
<b>SUSTAINABILITY</b>	<ul style="list-style-type: none"> <li>• Targets payment reduction, greatest indicator of future modification performance</li> <li>• Includes HTI target for consumers that engage early (&lt;90DPD)</li> </ul>
<b>TRANSPARENT</b>	<ul style="list-style-type: none"> <li>• Provides education around 40 year term and different amortization schedules</li> <li>• Reduced documentation requirements make clear decision factors for consumers</li> </ul>

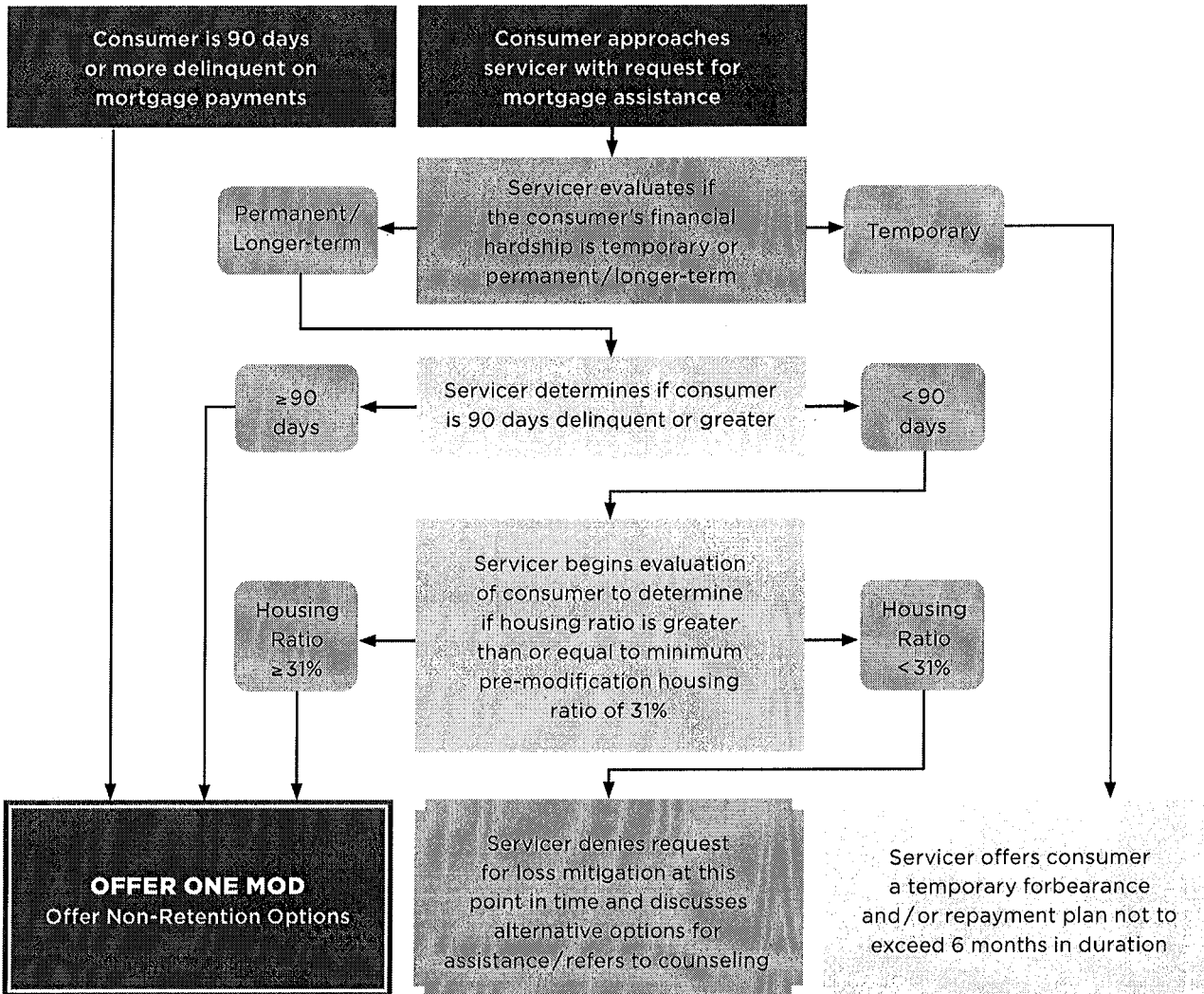
**TABLE 3: THE SUGGESTED "ONE MOD" WATERFALL**

<b>TARGET</b>	The largest economically positive payment reduction. OCC Data suggests that 20% is an appropriate benchmark.
<b>STEP 1</b>	Capitalize arrearages.
<b>STEP 2</b>	Reduce interest rate to the lower of market rate or current rate. For ARMs, convert to a 30 year term at market rate. For step-rate modifications, convert to the lower of the prior rate cap or the market rate.
<b>STEP 3</b>	Extend term to 480 months. Provide consumer with amortization tables demonstrating how to payoff mortgage in different amounts of time.
<b>STEP 4</b>	Provide principal forbearance/forgiveness to 100% LTV (with a cap at 30% of UPB). <sup>ii</sup>  Offer modification if the P&I payment reduction is 20% or greater and HTI is less than 40%.
<b>STEP 5 (if necessary)</b>	If payment reduction is less than 20% <sup>iii</sup> or HTI is greater than 40%, provide principal forbearance/forgiveness until either 80% LTV, 30% of UPB or the payment reduction of 20% and <40% HTI requirement is achieved.
<b>STEP 6 (if necessary)</b>	Offer modification as long as post-modification payment is less than or equal to pre-modification payment. <sup>iv</sup>

■ Pre 90+ DQ Steps      ■ Pre 90+ DQ Steps and Post 90+ Streamline Steps

- i. This presumes that 480 months is available as the maximum term. In situations where that is not currently available as a maximum term, a 360 month term should be utilized.
- ii. As noted above, forbearance could be replaced by principal forgiveness should an investor choose to do so. MBA would not suggest using principal forgiveness in instances where an investor or guarantor will not provide reimbursement.
- iii. Step 5 may also be offered in the streamlined waterfall, but only with regards to the 20% payment reduction target.
- iv. See FAQ #6 and #11 for some possible limiting factors — such as previous modifications.

FIGURE 3: THE ONE MODIFICATION TOOL-KIT PROCESS FLOW EXAMPLE



BORROWER METHOD OF EARNING INCOME	RECOMMENDED DOCUMENTS FOR HTI DETERMINATION
Wage Earner	One month of pay stubs (30 days) provided by consumer Attestation declaring hardship signed by consumer Credit report pulled by lender BPO/AVM generated for lender
Self-Employed or Non-traditional Wage Earner	1 Quarterly Profit and Loss Statements OR 2 months of bank statements Attestation declaring hardship signed by consumer Credit report pulled by lender BPO/AVM generated for lender
Other Income	One month of proof (bank statement, award letter) or source document Attestation declaring hardship signed by consumer Credit report pulled by lender BPO/AVM generated for lender

# 6. Answers to Frequently Asked Questions About “One Mod”

## 1. WHAT IS “ONE MOD”?

“One Mod” is MBA’s attempt to develop a set of universal principles that it believes should be adopted across government guarantors, the GSEs and others to replace HAMP when it expires. Based on data derived from the experience of the financial crisis, “One Mod” stands for a modification that targets a payment reduction, only requires documentation that is necessary for the modification decision and provides transparency for the consumer in how the modification decision is made. Future modification programs should consider these principles and work towards a universal standard, recognizing the reality that there may be variations in the exact offering due to investor or securitization requirements.

## 2. WHY DOES THIS MODIFICATION TARGET A 20% PAYMENT REDUCTION?

Research on the different modifications performed during the financial crisis concludes that payment reduction is one of the most effective ways to ensure that a modification does not re-default, keeping the consumer in the home and on relatively sound financial footing. As demonstrated in the OCC chart on page 8, 20% payment reductions tend to have better performance over time. The helps achieve the principle of sustainability that MBA members believe is important for a future loss mitigation program.

## 3. WHY DOES THIS MODIFICATION REQUIRE REDUCED DOCUMENTATION RELATIVE TO OTHER MODIFICATIONS?

As discussed above, the “paper chase” for verification documentation or program complexity has resulted in a population of consumers being unable to obtain a needed modification. A future loss mitigation program should strive to address this issue. Another benefit of a modification targeting payment reduction is that it requires less documentation than other possible modification solutions. For consumers that are self-employed or have non-traditional income some challenges will remain, but they should be lessened under a program that strives for light documentation or streamlined assistance to consumers in severe distress.

## 4. WHY DOES THIS MODIFICATION BECOME STREAMLINED AFTER 90 DAYS OF DELINQUENCY?

A consumer that is over 90 days delinquent has suffered severe credit consequences, significant arrearages and now has a financial hardship due to delinquency that is more severe than at the point of the initial missed payment. The consumer has also likely not responded to the servicer’s prior outreach efforts. CFPB regulations require that a servicer reach out to a consumer by the 36th day of delinquency and attempt to establish live contact to inform the consumers of appropriate loss mitigation options. A written notice encouraging the consumer to contact the servicer and describing applicable loss mitigation procedures is required by the 45<sup>th</sup> day of delinquency.<sup>4</sup> The GSEs, government guarantors and HAMP all have their own similar outreach requirements.

Industry data shows that streamlined modifications perform similar to other modifications at this stage of delinquency. A trial payment plan would be utilized as a proxy both for affordability and near-term sustainability. Counseling would be encouraged by referral and appropriate for the consumer to determine longer-term sustainability and how to best structure their budget if home retention is their goal. The MBA believes in the value of offering a streamlined, no-documentation “One Mod” modification at 90 days delinquency. We are also committed to exploring ways to provide additional payment relief throughout the “One Mod” framework that wouldn’t rely on required documentation collection after 90 days of delinquency.

## 5. WHAT ROLE DO COUNSELING ORGANIZATIONS FILL WITH “ONE MOD”?

Housing counseling organizations have an important role to play if One Mod is adopted. Given the central focus on payment reduction, these organizations could provide vital assistance and coaching to consumers to reorganize their budgets in order to ensure that the modification is affordable and sustainable given their unique situation. This would

4. See 12 CFR 1024.39

be a return to the traditional role of housing counselors rather than having them primarily collect paperwork and submit it to servicers for consideration for a modification.

Counseling will also be especially important for consumers that are determined to have a short-term hardship. These consumers might benefit from assistance to manage their funds during a period of adversity and prevent a short-term hardship from progressing into a more serious delinquency. In instances of short and long term hardship, One Mod related counseling could focus on:

- The need to budget to consistently afford monthly payments and revisit budgeting and spending plans
- How to understand escrow analysis and tax obligations
- Maintaining saving patterns to build reserves and address delinquency.
- Setting and achieving financial goals

If a modification exceeds the HTI target ratio or is unavailable, housing counselors could also work with the consumer to both understand the implications of accepting a modification that has a high payment relative to income or to advise on executing any non-retention options that may be in their best interest.

## **6. HOW DOES “ONE MOD” TREAT CONSUMERS IN IMMINENT DEFAULT?**

The “One Modification” framework is designed to support customers regardless of the delinquency of the account. If an account is in Imminent Default, additional limited documentation could be required by the servicer/investor/guarantor to underwrite the customer’s hardship and mitigate against any unintended consequences of a reduced documentation program. This documentation may include a death certificate, divorce decree, validation of a disability or some additional income information. The combination of a pre-modification housing ratio of 31% in the early stages, hardship affidavit and a limited documentation of hardship in imminent default should protect against concerns that the program will be used as a mechanism to achieve a “no cost” refinance or customers without a hardship will get a modification.

## **7. WHAT DOCUMENTATION STANDARDS WOULD BE USED FOR A CONSUMER THAT IS NOT A TRADITIONAL WAGE-EARNER OR SALARIED CONSUMER?**

It is currently challenging for self-employed consumers or those that are not “traditional” W-2 wage earners to document their income sufficiently to get a modification. Any

such calculation must take into account that the variations in income that can occur in self-employment or independent contracting. These fluctuations may make reliable income calculations difficult or outcomes unpredictable. MBA outlines our recommended documents above. A 4506-T is not recommended as it is both difficult to obtain and can often be outdated at the time the loan modification is being considered.

After 90 days delinquent, this consumer would be offered the streamlined “One Mod.”

## **8. HOW MANY TIMES COULD A CONSUMER BE OFFERED/ELIGIBLE FOR THIS MODIFICATION?**

Based on the OCC’s Uniform Retail Credit Classification and Account Management Policy<sup>5</sup> that states that open-ended accounts should not be re-aged more than once within any 12-month period and no more than twice in any five-year period for open-ended lines of credit, MBA would recommend that as a maximum that a consumer should be eligible once every 12 months and twice in five years. Previous modifications would be taken into consideration for the time frame when evaluating eligibility for “One Mod.” Some investors may be more conservative and it is important to note that the OCC guidance explicitly leaves room for more conservative guidelines.

Decisions about whether or not to offer modifications with limited payment relief may also be influenced by a recent modification. A servicer may be less inclined to view a payment neutral (or close to it) modification as appropriate if a consumer had received a recent modification, absent documented changed circumstances or other data indicating an increased ability to perform.

## **9. WOULD “ONE MOD” BE OFFERED FOR NON-OWNER OCCUPIED PROPERTIES?**

“One Mod” is designed to be offered for owner-occupied properties. Other loss mitigation solutions may be more appropriate for second homes or investment properties.

## **10. HOW CAN WE MODERNIZE FORBEARANCE PLANS TO BE MORE EFFECTIVE?**

MBA believes that rethinking the forbearance process and effective payment plans is a vital part of the future of loss mitigation. Following efforts around modifications, the MBA Task force will consider a forbearance plan for consumers who have a temporary hardship, which has a low payment during the Forbearance period (consider at minimum escrow payments/customer to remain current on taxes and insurance for non-escrow accounts), then a

5. 65 FR 113, 36903

conversion to a loss mitigation offering (repay, deferment, modification) at the end of the forbearance plan.

One possible solution that will be considered is a product where delinquent payments are converted to principal forbearance and due at maturity. This could be particularly helpful for customers who can afford their current payment but cannot afford a higher payment associated with a repayment plan or for early stage (rolling) delinquent accounts.

### **11. HOW DOES GENERAL CONSUMER EDUCATION FACTOR INTO A MORE SIMPLIFIED MODIFICATION PROCESS?**

In addition to counseling, servicers and other stakeholders should continue efforts to educate consumers about the importance of reaching out to their servicer ahead of any possible delinquency or default. While the "One Mod" process may result in some consumers being ineligible for the modification due to the circumstances of their hardship, early intervention is still important to reduce credit consequences. Such outreach can result in counseling or financial education that may prevent serious delinquency and the associated consequences.

It is also beneficial for servicers to consider providing information about the potential availability of loan modifications for eligible consumers that is easy to understand before they encounter financial difficulties. Such education about available options could encourage earlier outreach and general awareness of the availability of relief if a consumer proactively notifies their servicer.

### **12. DO YOU ENVISION "ONE MOD" APPLYING TO JUMBO LOANS OR OTHER LOANS INELIGIBLE FOR GSE OR GOVERNMENT GUARANTEES?**

The principles that guided the development of "One Mod" are general tenets that should factor into the development of any loan modification regime. The "One Mod" product is designed with our current origination environment in mind. Loans originated after the financial crisis are subject to the CFPB's Ability to Repay test (ATR), with Qualified Mortgages (QMs) presumed to satisfy this standard. Loans that are originated subject to GSE, FHA or other government guarantor programs are de-facto QMs and bear similar features. These loans are also subject to the loan limits of the relevant program.

Jumbo loans or other products are also subject to the ATR test, but may have different product features or underwriting considerations at origination. As such, while the "One Mod" principles are durable and universally applicable, jumbo loan investors or those originating non-traditional loans for more sophisticated consumers may not utilize

the "One Mod" approach in its entirety. Additionally, the possibility of significant residual income or liquid assets for jumbo and larger balance loan consumers may lead some servicers to make different determinations.

### **13. ARE THERE ACCOUNTING CONSIDERATIONS WITH THE PROPOSED ONE MOD THAT SHOULD BE CONSIDERED?**

For depositories, a streamlined approach would trigger collateral dependent accounting, which could be unfavorable. MBA recommends that OCC should consider changing these standards given that the data supports similar performance for underwritten vs. streamlined modifications and this would be a widely accepted industry practice following adoption of "One Mod." Barring these changes, it may be more difficult for depository institutions to offer certain modification processes to some consumers.

### **14. ARE THERE OTHER SECONDARY MARKET CONCERNS THAT MIGHT LIMIT THE ADOPTION OF "ONE MOD"?**

Changes to how the secondary market pools and prices mortgages may affect both the adoption of a universal modification program and the economic considerations underlying individual modifications. This may be especially relevant for servicers who modify Ginnie Mae loans where 40-year terms (the primary driver of payment reduction in a raising rate environment) are uncommon and may be cumbersome to deliver.

### **15. HOW DOES "ONE MOD" ENVISION TREATING LOANS THAT HAVE BEEN SOLD AS PART OF A NON-PERFORMING LOAN (NPL) SALE?**

NPLs are usually required to go through the investor/guarantor loss mitigation waterfall before they are bundled and sold. Consequently, prior to the NPLs being sold, the borrower has already been evaluated for a modification following the "One Mod" protocols, which was done by a servicer on behalf of that agency following adoption of "One Mod." Therefore, as is the case today, we would not expect the "One Mod" waterfall to apply to NPLs that are sold by the GSEs or FHA, since it would not be necessary to have a second servicer pursue all the same protocols with the borrower a second time.

Note that the "One Mod" principles may be instructive in those situations.

# Appendix 1

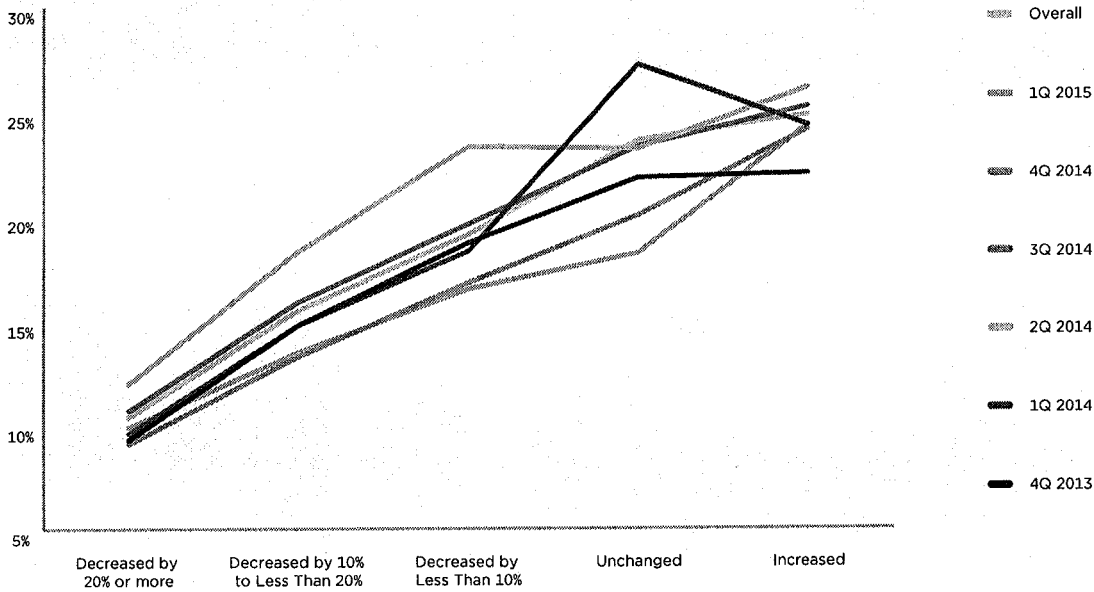
**TABLE 4: TOP 10 HAMP DENIAL REASONS OVER THE LIFE OF THE PROGRAM, AS OF APRIL 2015**

REASON	REASON DEFINITION	ASSOCIATED DENIALS	PERCENTAGE OF DENIALS
Request Incomplete	Homeowner requested a modification under the MHA program but did not provide the financial and/or hardship verification documentation required to complete the evaluation of their request in a timely manner.	1,017,730	25%
Current DTI Less Than 31%	Under HAMP Tier 1, homeowner's current monthly housing expense is less than or equal to 31% of their gross monthly income (i.e. monthly income before taxes and other deductions).	730,231	18%
Offer Not Accepted by Consumer/ Request Withdrawn	Homeowner withdrew their modification request for consideration for either a Trial Period Plan or HAMP modification or did not accept either a Trial Period Plan or a HAMP modification offer. Failure of homeowner to make the first trial period payment in a timely manner is considered non-acceptance of the Trial Period Plan.	531,521	13%
Ineligible Mortgage	Loan does not meet basic program eligibility criteria, such as: mortgage origination on or before January 1, 2009; or outstanding mortgage balance within program limits.	322,694	8%
Default Not Imminent/Default Status Not Eligible	<ul style="list-style-type: none"> <li>For HAMP Tier 1 or owner-occupied HAMP Tier 2: The subject loan is not delinquent and default is not reasonably foreseeable.</li> <li>For rental property considered under HAMP Tier 2: The homeowner has not missed two or more mortgage payments.</li> </ul>	311,844	8%
Property Not Owner Occupied	Loan is not eligible for modification under HAMP Tier 1 because the property secured by the mortgage loan is not occupied by the homeowner as their primary residence.	196,977	5%
Excessive Forbearance	Loan is not eligible for modification under HAMP Tier 1 because the principal forbearance required to achieve a payment of no more than 31% of the homeowner's monthly income requires forbearance exceeding program limits.	189,881	5%
Post-Modification DTI Outside Acceptable Range	Proposed modified monthly payment, which includes a modified monthly principal and interest payment on the first lien mortgage loan plus property taxes, hazard insurance premiums and homeowners dues (if any), is not within eligibility guidelines defined for HAMP Tier 2 in the MHA Handbook.	178,557	4%
Investor Guarantor Not Participating	At least one of the following parties has not granted authority for the servicer to modify the loan under HAMP: investor, guarantor, or private mortgage insurance company.	142,033	4%
Negative NPV	The result of the standardized Net Present Value (NPV) test is "negative." This test compares expected cash flows with and without HAMP, if expected future cash flows under HAMP are lower, the servicer is not required to modify the loan.	119,291	3%
Other	Includes HAMP applications denied for any of the following reasons: Insufficient Monthly Payment Reduction, Loan Paid off, Property and/or homeowner Exceeds Allowable Number of HAMP Modifications, Ineligible Rental Property, Application Discrepancy, No Change in Circumstance, Ineligible homeowner, Other Ineligible Property (i.e. Property Condemned, Property >4 units), Unemployment Forbearance Plan, Court/Public Official Declined, Dodd Frank Certification Non-Compliance, Federally Declared Disaster Area.	262,127	7%
<b>TOTAL APPLICATIONS DENIED</b>		<b>4,002,886</b>	

This chart is a reproduction of Table 3.2 in SIGTARP's July 29, 2015 Quarterly Report to Congress. Cited Sources: Treasury, "HAMP 1MP: Trial Fallout and Denials - Servicer, Vintage & Reason," April 2015, accessed 6/5/2015; Treasury HAMP data; Treasury, "Making Home Affordable Data File User Guide V8.0," February 2, 2015, [www.treasury.gov/initiatives/financialstability/reports/Documents/MHA%20Data%20File%20User%20Guide%20v8.0%20FINAL.PDF](http://www.treasury.gov/initiatives/financialstability/reports/Documents/MHA%20Data%20File%20User%20Guide%20v8.0%20FINAL.PDF), accessed 6/12/2015.

# Appendix 2

FIGURE 4: 60+ DELINQUENCY % AT SIX MONTHS AFTER MODIFICATION BY CHANGE IN MONTHLY PAYMENT



Source: OCC's 2015 Q3 Mortgage Metrics, p. 40

# Appendix 3

**TABLE 5: COMPARISON OF LOSS MITIGATION WATERFALLS**

MODIFICATION STEPS	"ONE MOD PROPOSAL" (targets a 20% payment reduction or greater)	GSE "STANDARD MOD" FOR POST MTMLV ≥ 80 AND GSE STREAMLINE	GSE "STANDARD MOD" FOR POST MTMLV < 80
<b>STEP 1</b>	Capitalize arrearages.	Capitalize arrearages	Capitalize arrearages
<b>STEP 2</b>	Reduce interest rate to the lower of market rate or current rate. For ARMs, convert to a 30 year term at market rate. For step-rate modifications, convert to the lower of the prior rate cap or the market rate.	Set the modified mortgage loan interest rate to the current GSE standard modification interest rate.	Set the interest rate to the borrower's current interest rate for a fixed rate loan. For an ARM or step-rate loan, if the rate is less than the current GSE standard modification interest rate, set to the standard modification rate.
<b>STEP 3</b>	Extend term to 480 months. <sup>i</sup> Provide consumer with amortization tables demonstrating how to payoff mortgage in different amounts of time.	Extend the terms to 480 months.	Calculate the Monthly P&I payment using a 480/360/240 month amortization term. Offer: <ul style="list-style-type: none"> <li>• 480 if less than or equal to current P&amp;I payment</li> <li>• 360 if monthly P&amp;I payment reduction is at least 20%</li> <li>• 240 if monthly P&amp;I payment reduction is at least 20%</li> </ul> The borrower will be offered the modification with each amortization term they are eligible for. If the borrower is eligible for a modification with more than one amortization term, the borrower may choose an amortization term offer.
<b>STEP 4</b>	Provide principal forbearance/forgiveness to 100% LTV (with a cap at 30% of UPB). <sup>ii</sup>	Provide principal forbearance to a post-modified MTMLTV ratio of 115% with a cap 30% of the gross post-modified UPB of the mortgage loan.	
	Offer modification if the P&I payment reduction is 20% or greater and HTI is less than 40%.	Offer Modification if post-mod payment is less than or equal to pre-mod payment.	Offer Modification if post-mod payment is less than or equal to pre-mod payment.
<b>STEP 5</b> (if necessary)	If payment reduction is less than 20% <sup>iii</sup> or HTI is greater than 40%, provide principal forbearance/forgiveness until either 80% LTV, 30% of UPB or the payment reduction of 20% and <40% HTI requirement is achieved.		
<b>STEP 6</b> (if necessary)	Offer modification as long as post-modification payment is less than or equal to pre-modification payment.		

\* Significant differences between "One Mod" and current GSE modifications in red text.

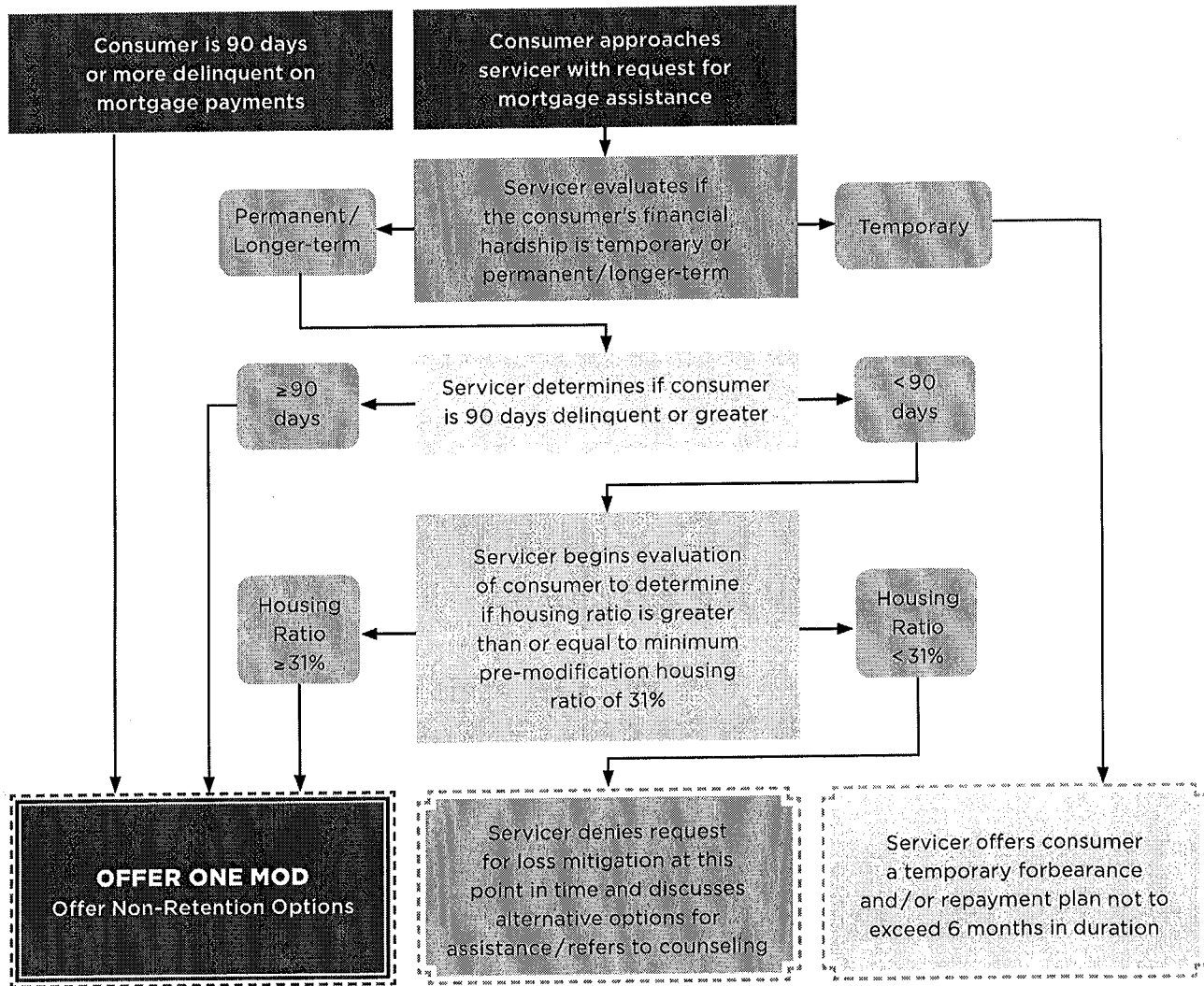
■ Pre 90+ DQ Steps    ■ Pre 90+ DQ Steps and Post 90+ Streamline Steps

- i. This presumes that 480 months is available as the maximum term. In situations where that is not currently available as a maximum term, a 360 month term should be utilized.
- ii. As noted above, forbearance could be replaced by principal forgiveness should an investor choose to do so. MBA would not suggest using principal forgiveness in instances where an investor or guarantor will not provide reimbursement.
- iii. Step 5 may also be offered in the streamlined waterfall, but only with regards to the 20% payment reduction target.



# Appendix 4

FIGURE 5: THE ONE MODIFICATION TOOL-KIT PROCESS FLOW -- POTENTIAL COUNSELING ENTRY POINTS



## “ONE MOD” AND HOUSING COUNSELING

“One Mod” understands the value of housing counseling and seeks to return housing counselors to their traditional role as trusted coaches for consumers seeking financial information or relief. As such, the envisioned “One Mod” process flow has multiple stages where housing counseling could be beneficial for the consumer to either make an informed choice about their options or better understand their financial situation.

--- Potential Referral/Entry Points for Housing Counseling

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MORTGAGE BANKERS ASSOCIATION

**LIFE AFTER HAMP – THE FUTURE OF LOSS MITIGATION**

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