Center for NYC Neighborhoods
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Courina Yulisa

# The Wind Down of HAMP

This information was taken from a Treasury webinar with Empire Justice Center. Check out Empire Justice Center's webinar recording on the MHA Program Wind Down on their HOPP portal at http://www.empirejustice.org/hopp-grantees/hopp-trainings/ag-hopp-webinars/understanding-the-end-of-mha.html.

**Wind Down Guidelines:**

- The Consolidated Appropriations Act of 2016 requires termination of MHA programs on **December 30, 2016**, with an exception for certain applications made before that date.
    - Guidance issued **March 3, 2016** (Supplemental Directive 16-02) covering the program end dates and requirements around consideration or evaluation of homeowners who request assistance prior to end date.
    - Additional guidance issued **May 2, 2016** (Supplemental Directive 16-03) covering other key program components (SPOC, escalations, post modification counseling, etc.).
    - Majority of **guidance will remain in effect through 2017** or longer.

**Timeline:**

FHA HAMP is a permanent program and will not be ending.

GSE: the Standard Modifications will still be available.

**May 1, 2016**

- UP: servicers can begin to offer proprietary forbearance plans ahead of UP effective May 1, 2016

**December 30, 2016**

- HAMP:
    - Initial package (does not need to constitute a "complete" package for evaluation) submitted by December 30, 2016
- HAFA:
    - Approved offer of a sale or pre-approval with the terms of the listing agreement or short sale on or before December 30, 2016
- UP:
    - Forbearance Plan approved by December 30, 2016
- 2MP:
    - Same with HAMP
    - GSE HAMP: Complete loan modification application must be received on or before December 30, 2016

- SPOC:
    - Servicers are no longer required to assign relationship managers (RM) to borrowers after December 30, 2016. However, CFPB rules still apply.

**March 30, 2017**

- 2MP:
    - Servicer must receive notification of the 1st lien match on or before March 30, 2017

**December 1, 2017**

- HAMP:
    - Permanent modifications must be effective by December 1, 2017
    - Servicers still need to continue to offer financial counseling for anyone starting a new trial until December 1, 2017. If they offer an approved proprietary solution, then the servicers can institute that afterwards.
- HAFA:
    - Closings must occur by December 1, 2017
- 2MP:
    - Any partial or full extinguishment of 2nd lien must be completed by December 1, 2017
- Escalations:
    - MHA HELP and HSC Centers- cases must be received by December 1, 2017

<u>**Key Takeaways:**</u>

- **Payment Reduction** – amount of payment reduction has a significant impact on performance.

- **Principal Reduction** – particularly for underwater homeowners, can help achieve payment reduction. From HAMP PRA, we have learned that loans receiving principal reduction **perform better after 36 months** than loans without principal reduction.

- **Delinquency at Time of Modification** – performance of the modification is influenced by the length of delinquency of the loan at time of modification.

- **Robust Infrastructure and Processes are Important** – for both servicers and homeowners – many of the **key "process" points introduced by HAMP** (single point of contact, defined protocols to reach out to delinquent borrowers, protections against dual tracking foreclosure, escalation process, etc.) have been adopted by the industry and the CFPB.

- **Look Holistically at the Borrower's Situation** – the tools you use will vary with the situation. Is the borrower underwater? Do they have a second lien? How long could hardship last?

## Sustainable Modification Proposal

Every borrower who is delinquent or at-risk of becoming delinquent should be able to apply for an income-based modification. Servicers have expressed concerns about the burden of doing income verification, but HUD approved housing counseling agencies can help to relieve that burden. When a servicer receives a request for assistance from a borrower, the servicer should explain that housing counseling resources are available and refer the homeowner to a counselor that can help borrowers assemble their documentation, review eligibility for a modification or other appropriate resolution, and work with the borrower on their household finances.

### Income-Based Modification Option

Borrower Qualification: The borrower documents a financial hardship by representing that (s)he does not have sufficient liquid assets to make the monthly mortgage payments, by completing a Uniform Borrower Assistance Form 710, and by providing two most recent paystubs or other income documentation, the most recent bank statement, and a 4506-T form. The servicer should work directly with any housing counselor assisting the borrower to collect documentation. Where possible and with borrower permission, the servicer should collect the income documentation electronically from the employer and the bank statement from the bank.

Target Monthly Mortgage Payment: Identify an affordable Target Monthly Mortgage Payment for the modification by using an affordability formula of the servicer's design as long as the modified monthly mortgage payment (including escrow and any association fees) does not exceed 31% of the borrower's gross monthly income and is designed to establish affordability and sustainability.

Capitalize Arrears: Capitalize the unpaid interest, escrow advances to third parties, and any reasonable and necessary fees to third parties, eliminating all late fees and penalties.

Principal Reduction: The servicer will provide for principal reduction to achieve the Target Monthly Mortgage Payment. The principal will be reduced to 95% Mark to Market Loan to Value. Servicers must initially treat principal reduction on PRA loans as non-interest bearing principal forbearance. If the borrower is in good standing on each of the first, second and third anniversaries of the trial period effective date, the servicer must cancel a third of the principal reduction amount at each anniversary.

Lower Interest Rate: Reduce the starting interest rate in increments of 0.125 percent to get as close as possible to the target monthly mortgage payment ratio. The resulting interest rate is the permanent rate for the life of the loan.

Reamortize the Loan: If necessary, extend the term and reamortize the mortgage loan by up to 360 months from the modification effective date (i.e., the first day of the month the permanent modification is in effect) to achieve the Target Monthly Mortgage Payment. If the 360 month term extension is inadequate for reaching the target monthly mortgage payment, then the terms will be extended to 480 months.

NPV Positive Floor: The servicer shall extend an Income-Based Modification if a positive net present value is achieved. If the loan modification becomes NPV negative, the waterfall process will be stopped and the borrower can qualify for the best modification which keeps the loan modification NPV positive, or the borrower should be offered a payment reduction modification (discussed below), whichever provides the lower monthly payment.

**Payment Reduction Modification (PRM) Option**: If the borrower is not able to provide the documentation for the income-based modification after the servicer has complied with applicable RESPA servicing rules under 12 C.F.R. 1024.41, or if the PRM provides the borrower with a greater payment reduction, the servicer will offer a PRM.

In looking at a payment-reduction-based approach, advocates are concerned about whether the industry proposal of a 20% across the board payment reduction is sufficient, especially for low-income borrowers. We advocate for a deeper 30% payment reduction across the board or a more flexible approach that allows a greater target payment reduction in order to improve loan modification performance for discrete subsets of borrowers as supported by the data. Deeper payment reduction could be tied to Mark to Market Loan to Value ratio or other factors that the data show to be related to modification performance. For borrowers with a small monthly mortgage payment, a 30% reduction might not result in meaningful relief, so a minimum dollar amount of payment reduction could be imposed as a floor (for example, the target payment reduction could be the greater of 30% of monthly payment or $200).

In the PRM, the servicer should modify the loan by taking the following steps until the target payment reduction is reached:

(1) Capitalize the interest arrears (waiving late fees),
(2) Fix the interest rate at the lesser of: (a) the current market rate (determined as the Freddie Mac Primary Mortgage Market Survey) or (b) the current contract rate,
(3) Apply principal reduction as needed to achieve the target payment, down to a floor of the amount of reduction needed to bring the loan to a 95% Mark to Market Loan to Value ratio. (As with the income-based modification, this principal reduction should initially be taken as a non-interest bearing forbearance, but if the borrower is in good standing on each of the first, second and third anniversaries of the modification effective date, the servicer must cancel a third of the principal reduction amount at each anniversary),
(4) Reamortize the interest-bearing principal balance over a new repayment term, lengthened as needed to achieve the target payment, up to a maximum of a new 480 months from the modification effective date.

The borrower will be offered a PRM automatically when the loan becomes 90 days delinquent. This includes sending the terms of the PRM offer to the borrower’s housing counselor or attorney (if the homeowner is working with a counselor or attorney) so that the counselor or attorney can explain the modification and assist the borrower in evaluating it.  The borrower can accept the PRM by making three timely (within the month due) trial payments.

In the PRM offer letter, the servicer must notify the borrower of the option to defer accepting the PRM in order to be evaluated for an Income-Based Modification, and the fact that housing counselors are available to assist with that application.

Recommended Best Practices for Loan Modifications

1. The trial payment plan offer should include an itemization of the amount to be capitalized (similar to a payoff statement); estimated information about the proposed new interest bearing principal balance, principal reduction or forbearance; and maturity date.
2. Servicers will not impose a modification fee on the borrower in connection with the modification review or approval.
3. Borrowers will not be required to make any upfront payment.
4. Borrowers who have received a modification and have had a change in circumstances may apply for a new modification.
5. Borrowers who have received a modification but where there was a mistake in determining the terms of the modification may apply for a new modification.
6. Servicers will review borrowers in bankruptcy for a loan modification.
7. Borrowers who have obtained a discharge of the debt in bankruptcy will be eligible for loan modification review and will not be required to reaffirm the debt as a condition of obtaining a loan modification.
8. Servicers will not require borrowers to waive claims or defenses in connection with a modification.
9. Servicers will refer borrowers to HUD approved housing counseling agencies to help collect borrower documents, inform the borrower, and assist the borrower through the modification process.
10. Servicers will pay the housing counseling agencies for services delivered and bill the investor, where appropriate.