



National Servicing Center

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FY 2012**

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HUD's Loss Mitigation Program

Mortgagee Letter 2000-05

Loss Mitigation Overview

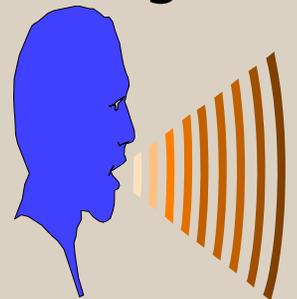
- ❖ FHA has delegated authority and responsibility to Lenders to mitigate mortgage losses.
- ❖ Lenders have latitude in selecting the loss mitigation strategy for each Borrower.
- ❖ Lenders must utilize loss mitigation whenever feasible to avoid foreclosure.
- ❖ Lender participation is not optional.
- ❖ Sub-Servicers must be FHA-Approved.

Loss Mitigation

Mandatory Lender Participation

Lenders must:

- ❖ Address delinquency early.
- ❖ Inform/Review Borrower on all Loss Mitigation options.
- ❖ Provide housing counseling information.
- ❖ Report monthly Loss Mitigation progress through the Single Family Default Monitoring System.



Loss Mitigation

Mandatory Lender Participation

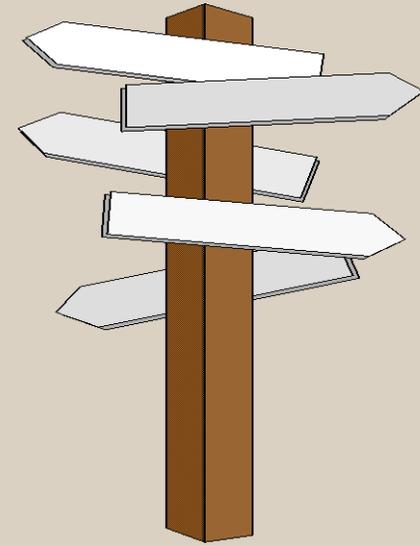
Lenders must:

- ❖ Evaluate each delinquent loan no later than the 90th day of delinquency.
- ❖ Monthly re-evaluation is required until reinstatement or foreclosed.
- ❖ Initiate foreclosure within 6 months of the default date unless pursuing a Loss Mitigation option.
- ❖ Document compliance with all Loss Mitigation requirements.

General Program Requirements

Option Priority

- ❖ Special Forbearance
- ❖ Trial Payment Plan
- ❖ Loan Modification
- ❖ Partial Claim
- ❖ FHA's Home Affordable Modification
- ❖ Preforeclosure Sale
- ❖ Deed-In-Lieu of Foreclosure



General Program Requirements

Owner-Occupancy

- ❖ Required for retention options.
- ❖ Allowable exception on Preforeclosure Sale or Deed-In-Lieu if:
 - rental does not exceed 18 months,
 - property was not purchased as investment, or
 - the need to vacate is related to the reason for default.

General Program Requirements

Receipt of Notice of Bankruptcy Filing:

Lenders are to:

- ❖ Provide sufficient instruction to facilitate workout discussions.
- ❖ Offer Loss Mitigation Options through Borrower's Attorney, prior to discharge or dismissal.
- ❖ Borrower without an Attorney, offer Loss Mitigation Options, and provide a copy to the Bankruptcy Trustee.

Special Forbearance Option

Mortgagee Letter 2002-17

Special Forbearance Agreements

Definition:

- ❖ Written agreement,
- ❖ Reinstates a loan that is at least 3 months unpaid but not more than 12 months delinquent PITI,
- ❖ Provides more relief than an informal or formal forbearance plan,
- ❖ Does not change the original loan terms,
- ❖ Provides failure options, and
- ❖ No maximum term.

Special Forbearance Borrower Qualification

- ❖ Experienced a verifiable loss of income or increase in living expenses.
- ❖ Has or will have sufficient surplus income to correct the delinquency.
- ❖ Borrower must be owner occupant.

Special Forbearance Type I

- ❖ A structured Agreement that allows a Borrower to repay a delinquent loan over time.
- ❖ Agreement must provide for relief not typically offered with an informal or formal forbearance plan.
- ❖ Agreement may include an initial period for financial recovery followed by a payment schedule based on the Borrower's ability to pay.

Special Forbearance: Type I

Cause of Default - Unemployment

- ❖ A Type I Special Provision Forbearance is for the Borrower whose cause of default is unemployment.

Borrower must:

- ❖ Make partial payments, if financially able.
- ❖ Agree to actively seek employment.
- ❖ Immediately notify Lender when employment status changes.

Lender must:

- ❖ Verify Borrower's employment status monthly.
- ❖ Minimum duration for Special Provision Type I is 12 months.
- ❖ Not allow delinquency to become more than 12 months PITI.
- ❖ Renegotiate terms and/or extend the Special Provision Type I.

Special Forbearance Type II

NOTICE: SFB Type II will be “replaced” with Trial Payment Plan as per Mortgagee Letter 2011-28 effective *October 1, 2011 – Effective Date is Subject to Change.*

A Special Forbearance Agreement Type II combines a short-term Special Forbearance Agreement with either a Loan Modification or a Partial Claim.

Special Forbearance Type II

- ❖ Identify the loss mitigation initiative that will be used to cure the default, i.e., Loan Modification or Partial Claim.
- ❖ Late fees are not to be assessed during the SFB Type II.
- ❖ Require a minimum of 3 monthly payments.
- ❖ Lenders may file for the incentive fee associated with the option used to cure the default, when the loss mitigation action is finalized.

Trial Payment Plan for Loan Modification and Partial Claims

- ❖ **Effective Date – October 1, 2011 – Effective Date is Subject to Change**
- ❖ Implementation of Trial Payment Plan
- ❖ Supersedes Mortgagee Letters 2000-05 and 2002-17
- ❖ **Prerequisite** - Successful completion of a Trial Payment Plan
- ❖ Status Loan Situations

Trial Payment Plan Guidelines

❖ **Guidelines**

- ❖ Trial Payment Plan period is 3 months
- ❖ Three full consecutive monthly payments must be made
- ❖ No language may be added which requires Borrower to waive their rights for a Loss Mitigation Option

❖ **Loan Modification**

- Must be in compliance with Mortgagee Letter 2009-35
- Final payment must be the same or less than the Trial Payment Plan amount
- Escrow Analysis **must** be completed to avoid another payment increase

❖ **Partial Claim**

- Monthly payment is to be the same as the regularly scheduled payment

Mortgagee Letter 2011-28

Loan Modification Option

Mortgagee Letter 2000-05; 2008-21; 2009-35

Loan Modification

- ❖ A permanent change in the terms of a Borrower's loan.
 - Interest Rate shall be reduced.
 - Loan Term extended to 360 months.
- ❖ Capitalization of delinquent PITI.
- ❖ Legal fees and related foreclosure costs may be capitalized.
- ❖ Allows a loan to be reinstated and results in a payment the Borrower can afford.

Loan Modification Requirements

- ❖ Three (3) payments due and unpaid (61 days delinquent).
- ❖ Minimum of 12 months elapsed since loan origination date.
- ❖ Loan may not be in foreclosure when executed.

Loan Modification Borrower Qualifications

- ❖ Stabilized surplus income sufficient to support the modified mortgage.
- ❖ Owner-occupant, committed to occupying property as primary residence.
- ❖ Does not have another FHA-insured mortgage.
- ❖ If an Adjustable Rate Mortgage, the loan must be converted to a Fixed Interest Rate Mortgage.

Loan Modification Property Condition

- ❖ Lenders must verify the property has no adverse physical conditions.
- ❖ Repair costs may not be calculated into the Loan Modification.
- ❖ Borrower cannot receive any cash back from a Loan Modification.

Loan Modification Allowable Provisions

- ❖ Must result in a fixed interest rate.
- ❖ Must fully reinstate the loan.
- ❖ Reduce the Note Rate to the current Market Rate.
- ❖ Re-amortize the total unpaid amount due over a 360 month period.
- ❖ Maximum allowable rate increase is 50 basis points above the current Freddie Mac Weekly Primary Mortgage Market Survey Rate for 30-year fixed-rate or the Federal Reserve Board Weekly Rate.
- ❖ **<http://www.freddiemac.com/pmms/>**
- ❖ **<http://www.federalreserve.gov/releases/h15/>**

Mortgagee Letters 2000-05, pg. 21; 2009-35, pg. 2

Partial Claim Option

Mortgagee Letter 2003-19; 2008-21

Partial Claim

- ❖ A promissory note and subordinate mortgage to cover the advance for delinquent mortgage payments is issued in the name of the Secretary of HUD.
- ❖ Lender may also include legal fees and foreclosure costs related to a canceled foreclosure.
- ❖ Lender advances funds on behalf of the Borrower in the amount of the Partial Claim advance to reinstate the delinquent loan.

Partial Claim Requirements

- ❖ Loan must be 4 monthly payments due and unpaid (91 days delinquent).
- ❖ Total delinquency may not exceed 12 months PITI.
- ❖ Loan may not be in foreclosure at the time Partial Claim note is executed.

Partial Claim Borrower Qualifications

- ❖ Have overcome the cause of default.
- ❖ Have sufficient income to resume monthly mortgage payments.
- ❖ Insufficient surplus income to repay delinquency through a Special Forbearance or Loan Modification.
- ❖ Borrower must be owner-occupant, committed to continuing occupancy of the property as primary residence.
- ❖ Option cannot be used to reinstate a loan prior to sale or assumption.

Partial Claim Allowable Provisions

- ❖ The Partial Claim must fully reinstate the loan.
- ❖ The Partial Claim advance may include a maximum of 12 months principal, interest, taxes and insurance (PITI), required to reinstate the loan.
- ❖ The Partial Claim may include legal fees and foreclosure costs related to a canceled foreclosure.
- ❖ Lender should waive all accrued late fees associated with the current default episode.

Partial Claim Repayment Terms

Promissory Note becomes due and payable when the Borrower either pays off the 1st mortgage or no longer owns the property.

Making Home Affordable Program:

FHA's Home Affordable Modification Loss Mitigation Option (FHA-HAMP)

Mortgagee Letter 2009-23, pg. 1

FHA-Home Affordable Modification Program (FHA-HAMP) Basic Program Guidelines

FHA-HAMP combines a Partial Claim with a Loan Modification

- ❖ Eligible FHA Borrower are those that are:
 - Facing Imminent Default, or
 - Currently in Default
- ❖ Total Partial Claim, including arrearages of up to 12 months Principal, Interest, Taxes, and Insurance (PITI) plus legal fees and costs related to a canceled foreclosure action (maximum over life of loan), and deferred principal, may not exceed 30 percent of the unpaid principal balance as of the default date.

FHA-Home Affordable Modification Program (FHA-HAMP) Basic Program Guidelines

FHA-HAMP combines a Partial Claim with a Loan Modification

- ❖ Imminent Default Borrower - must first complete a 4 month trial plan; whereas a Defaulted Borrower - must first complete a 3 month trial plan with a payment equal to the monthly PITI to be required on the modified loan (must be a fixed rate mortgage).
- ❖ If trial plan payments are not made in a timely manner, the Borrower is no longer eligible for FHA-HAMP.
- ❖ Interest Rate shall be reduced.
- ❖ Loan Term extended to 360 months.

Mortgagee Letter 2009-23, pp. 1-2; 2009-35, p. 2; 2010-04, pg. 2

FHA-HAMP

Debt to Income Ratios

- ❖ **Front-End Ratio** – The total first mortgage payment (PITI) divided by the Borrower's gross monthly income, shall be 31%.
- ❖ **Back-End Ratio** – The total first mortgage payment plus all recurring monthly debt divided by the Borrower's gross monthly income, shall not exceed 55%.

FHA-HAMP

Maximum Partial Claim Amount Calculation

| Item | Description |
|---|--|
| Maximum Partial Claim | < = 30% of the outstanding principal balance |
| Maximum Principal Deferent on FHA-HAMP | Determined by: Outstanding Principal Balance x 30% - Amount of Arrearages - Foreclosure fees and costs |
| Principal Deferment | Shall not exceed amount needed to bring the total monthly mortgage payment to 31 percent of the Borrower(s) gross monthly income. |

The above items are subject to the requirements of Mortgagee Letter 2008-21.