

Servicing and Loss Mitigation

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What kind of loan do you have?

- FHA
 - Origination-based (look at loan docs)
- GSE
 - Investor-based
 - Fannie Mae, <http://www.fanniemae.com/loanlookup//>
 - Freddie Mac, <https://ww3.freddie.mac.com/corporate/>
- HAMP-participating
 - Servicer-based
 - Making Home Affordable list,
<http://www.makinghomeaffordable.gov/get-started/contact-mortgage/Pages/default.aspx>
- Other

FHA Loss Mitigation



FHA Loss Mitigation

- Forbearance
 - Informal = verbal agreement up to 3 months
 - Formal – written for 3 – 6 months
- Special Forbearance
 - Must have verifiable loss of income from unemployment
 - Must be 3 months behind, lasts a minimum of 12 months
 - Provisions to evaluate for other loss mitigation to resolve default
- Loan Modification
 - PITI reduced 10% or \$100 (whichever is larger)
 - Set market interest rate and amortizing over 30 years
- FHA-HAMP
 - Modification only
 - Partial Claim only
 - Combination loan modification and partial claim

FHA new servicing standards

- Several new letters released
- New rules take effect January 2014
 - Notices to send to defaulted borrowers
 - Time tables for reviewing & making decisions on applications
 - Rules for stopping Sheriff's Sale pending review (45 days before sale or limited rights)
- Why these matter?
 - Failure to comply with FHA loss mitigation can create a defense in foreclosure
 - These new detailed policies create good references to point to servicing defects
- FHA is creating a Single Family Housing Policy Handbook
 - In draft
 - http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/SFH_policy_drafts

Submit Complaints

- National Servicing Center, 800-225-5342
- If still unresolved, contact

Matt Martin

Program Director, Loss Mitigation

National Servicing Center

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Government-Sponsored Entities



GSE Loss Mitigation Guidelines

- Servicing Alignment Initiative (SAI) Effective 10/1/11
 - www.fhfa.gov/webfiles/21190/SAI42811Final.pdf
 - www.freddiemac.com/singlefamily/service/servicing_alignment_faq.html
 - Still not totally aligned
- GSE-HAMP
 - Very much like HAMP, just different forms and timelines
- Standard Modification
 - Very much like HAMP Tier 2
 - Fixed interest rate (9/1/13 = 4.625%)
 - Allows principal forbearance for under-water loans
 - Can stretch out to 480 months (40yrs)
- Secret non-HAMP alternative
 - For homes with lots of equity (LTV < 80%)

Submit Complaints

- hmpadmin.com

Making Home Affordable

[**www.makinghomeaffordable.gov**](http://www.makinghomeaffordable.gov)



Many programs in one

- HAMP
 - Tier 1
 - Tier 2
- HAMP - UP
 - Forbearance, then modification
- 2MP
 - Second lien modifications
- HAFA
 - Foreclosure alternatives
 - Deed-in-lieu
 - Short sale
- HARP
 - Refinance for underwater loan
 - Must be current on payments

HAMP Tier 1

- HAMP Tier 1 – still the same

- Goal: REDUCE PITI payment to 31% of gross HH income
- interest reduced as low as 2%, fixed for 5, then adjusts 1% annually until up to market
- Benefits – reduces interest, resolves delinquencies, and reduces long-term payment
- Limitations
 - Doesn't help those with payments already at or below 31%
 - Doesn't help those who owe too much and cannot get pymt low enough with interest reductions

HAMP Tier 2

- HAMP Tier 2
 - For those that “fail” under Tier 1
 - Available for people who were approved under Tier 1 and then failed (at least 12 months of good pymts between prior mod an new application)
 - Also allowable for rental properties & second homes
 - Allows PITI payment as low as 10% HH gross, no more than 55% HH gross
 - Modification must accomplish 10% reduction of P&I pymt
 - Same interest reductions, fixed for 5, then adjusts 1% annually until up to market
 - Limitations – analysis still requires PI adjustment, so those struggling with high escrow but small P&I may still be ineligible for this program

AG Settlement

<http://www.nationalmortgagesettlement.com/>



Is your loan included?

- Participating servicers
 - Ally Financial, Inc./GMAC*
 - Bank of America Corp.*
 - Citigroup
 - JP Morgan Chase & Co.
 - Wells Fargo & Co.
- Only certain loans are covered
 - NOT Fannie Mae (but servicing standards do apply)
 - NOT Freddie Mac (but servicing standards do apply)
 - But FHA is included
- Covered time period
 - March 1, 2012 – September 1, 2016

Court filing standards

- Statements in court filings
 - based on competent & reliable evidence
 - based on personal knowledge
- Signatures by hand & dated
- Must notify borrower or counsel of robo-signed documents in cases pending at time settlement was executed

Servicing standards

- Single point of contact (SPC)
 - Servicer must establish potentially eligible first lien borrowers
 - SPC for bankruptcy must be specially trained
- No dual tracking
 - Less than 4 months (120 days) delinquent
 - Substantially complete packet received
 - Loan not already referred to foreclosure
- Servicer must promptly notify borrower of new foreclosure sale date if sale is continued rather than cancelled

Controls on fees

- No late fees if timely full payment with exception of prior late fees
- No late fees during evaluation of complete loan mod application
- No property preservation fees during loss mitigation application or performance unless necessary
- No BPO fees more often than 12 months

Transferred loans

- Transferring of servicing rights should not terminate pending loan modification
 - Current servicer has to inform successor
 - Agreement of transfer has to obligate successor to accept completed loan mod, continue processing pending loan mod
 - Borrowers ARE 3rd party beneficiaries of these provisions in settlement

Report non-compliance

- Typical issues
 - dual-tracking
 - delaying consideration of the mod app,
 - “losing” documents,
 - constantly requiring additional items,
 - making people submit new documents because the ones already submitted are too old
- The AG has enforcement authority

Submit Complaints

- For every person you see with these issues
- Include all of the relevant documents
- Online:

<http://www.attorneygeneral.gov/complaints.aspx?id=451>

- By mail:

Sr. Dep. Attorney General John M. Abel
Bureau of Consumer Protection
15th Floor, Strawberry Square
Harrisburg, PA 17120

Coming Soon...



CFPB servicing standards

- Reg. X, takes effect January 2014
- Early Intervention
 - Notices to send to defaulted borrowers
- Continuity of Contact
 - Single point of contact
 - Reachable by phone
 - Must provide accurate information
- Loss Mitigation
 - Servicer must create procedures
 - Time tables for reviewing & making decisions on applications
 - Rules for stopping Sheriff's Sale pending review (45 days before sale or limited rights)
 - Required items within the notices of denials
 - Right to appeal denial w/in servicer

CFPB servicing standards

- Why these matter?
 - Creates industry standards
 - Failure to comply with can create a defense in foreclosure
 - These new detailed policies create good references to point to servicing defects
- Re-defining RESPA
 - Notice of Error
 - **including failure to comply with servicing regs.
 - Request for Information
 - More broad than QWR, requires more responses
 - Can ask for information about loan modification application

Submit Complaints

- <http://www.consumerfinance.gov/complaint/#>

File a mortgage complaint

We'll forward your issue to the company, give you a tracking number, and keep you updated on the status of your complaint.

1. **What happened?**

2. Desired resolution

3. My information

4. Product information

5. Review

Describe what happened so we can understand the issue... *