

# *Loan ALERT*

## **INTRODUCTION OF FANNIE MAE UNEMPLOYMENT FORBEARANCE SERVICING GUIDE**

If your loan is held or owned by Fannie Mae you may be able to get forbearance on your payments for six months and possibly longer. You need to check on this if you are unemployed and contact the servicer. When doing so you should cite the above title in case the person with whom you are speaking is unaware of the matter and be sure to note the date, time, phone number you called along with the name.

**Fannie Mae is introducing an Unemployment Forbearance program which provides servicers the flexibility to assist borrowers who have a financial hardship due to unemployment.** These new requirements are consistent with the mortgage loan servicing guidelines for Unemployment Forbearance established by the Federal Housing Finance Agency for Fannie Mae and Freddie Mac. The Fannie Mae Unemployment Forbearance program simplifies and streamlines the use of forbearance options by incorporating the following features:

- Provides a viable alternative for borrowers who are unemployed (including borrowers facing imminent default);
- **Allows the borrower to receive a reduction or suspension of the monthly mortgage payment for a specific period of time;**
- **Prohibits the servicer from proceeding with foreclosure proceedings during the forbearance period;**
- Includes borrower requirements outlining their responsibility for communicating with the servicer and providing the necessary documentation;
- Uses standard processes, documents, and time frames.

The policies described in this Announcement will be added as a new subsection in Part VII, Chapter 403 of the *Servicing Guide* and supersede the sections related to forbearance for unemployed borrowers in Announcement SVC-2010-15: Updates to Fannie Mae's Forbearance, Income Eligibility, and Home Affordable Modification Program Requirements.

This Announcement provides guidance to Fannie Mae servicers for adoption and implementation of Unemployment Forbearance for Fannie Mae loans and covers the following topics:

- Effective Date
- Unemployment Forbearance
- Eligibility
- Unemployment Forbearance Terms
- Extending the Forbearance Term
- Documentation
- Borrower Solicitation and Follow-Up
- Mortgage Insurance
- Late Fees
- Reporting Requirements

### **Effective Date**

Servicers are encouraged to adapt their processes to implement the Fannie Mae Unemployment Forbearance policies and procedures immediately; however, **SERVICERS ARE REQUIRED TO IMPLEMENT THESE POLICIES AND PROCEDURES NO LATER THAN MARCH 1, 2012**, for borrowers who become eligible for Unemployment Forbearance on or after that date.

#### **Unemployment Forbearance**

A mortgage loan is eligible for an Unemployment Forbearance if all the following criteria are met:

- The borrower must have a financial hardship due to unemployment.
- The borrower may be either delinquent or default is reasonably foreseeable.
- The property must be a principal residence. Second homes and investment properties are not eligible.
- The property cannot be vacant, condemned, or abandoned.
- The mortgage loan cannot be an FHA, VA, or Rural Housing mortgage loan.

If the borrower is being considered for a forbearance extension, the following criteria must also be met in addition to those above:

- The borrower has performed as required on the current forbearance plan, unless the servicer has determined that there are extenuating circumstances.
- The borrower's cash reserves must not exceed 12 months of the borrower's monthly housing expense.

**NOTE:** *The monthly housing expense is comprised of principal, interest, actual or estimated escrows for taxes and insurances (including mortgage insurance premiums), any escrow shortage payments included in the existing monthly mortgage loan payment, monthly homeowner's association/co-op fees, and ground rent.*

- The borrower's current monthly housing expense to income ratio (excluding unemployment benefits) must be greater than 31%.

A borrower who is currently performing on a Fannie Mae HAMP or Fannie Mae non-HAMP Trial Period Plan and becomes unemployed may seek consideration for Unemployment Forbearance. If the borrower does convert from a Trial Period Plan to an Unemployment Forbearance, the borrower may subsequently be eligible for a HAMP or non-HAMP modification upon successful completion of the Unemployment Forbearance and if eligible, must be placed on a new Trial Period Plan. The servicer, however, cannot require an unemployed borrower in a Trial Period Plan to convert to an Unemployment Forbearance plan.

#### **Mortgage Loans in MBS Pools**

For MBS mortgage loans, the maximum permitted duration of the Unemployment Forbearance period is based on the aggregated number of months in the Unemployment Forbearance without a full cure of the delinquency and is determined by the MBS pool issue date without regard to the servicing option or recourse arrangement under which the loans were purchased or securitized. Accordingly, a servicer must identify and distinguish the pool issue date under which an MBS mortgage loan was pooled and be familiar with the varying servicing requirements. In no event may an Unemployment Forbearance period extend past the last scheduled payment date of the mortgage loan.

- For mortgage loans with MBS pool issue dates from June 1, 2007 through December 1, 2008, a servicer may offer an Unemployment Forbearance for a maximum term of up to six months. Fannie Mae will not approve any request to extend the six-month maximum duration limit.
- For MBS mortgage loans with pool issue dates up to and including May 1, 2007, MBS mortgage loans with pool issue dates of January 1, 2009 and beyond, and for mortgage loans held in Fannie Mae's portfolio, a servicer may recommend Unemployment Forbearance for periods longer than six months. Servicers are reminded to submit to Fannie Mae Unemployment Forbearance plans with a recommended forbearance period greater than six months.

### **Unemployment Forbearance Terms**

The servicer must follow the terms below for Fannie Mae's Unemployment Forbearance:

- The initial Unemployment Forbearance period is the lesser of six months or upon notification from the borrower of re-employment.
- All Unemployment Forbearance plans (initial and if extended) must be communicated in writing to the borrower. Servicers may use the relevant Evaluation Model Clauses available on eFannieMae.com for this communication. Use of the model clauses is optional; however, the model clauses reflect a minimum level of information that the servicer must communicate and illustrate a level of specificity that complies with the requirements of the Servicing Guide and this Announcement. The servicer that elects to use the model clauses must revise its letter as necessary to comply with applicable law.
- If there is a monthly mortgage payment due under the Unemployment Forbearance plan, it must be less than the amount of the borrower's regular monthly payment.
- When a payment is required under the Unemployment Forbearance plan, the servicer must receive the borrower's payment on or before the last day of the month in which it is due. If the borrower fails to make payments on a timely basis, the Unemployment Forbearance plan must be terminated. However, the servicer should use good business judgment in determining whether an Unemployment Forbearance payment was received in a timely manner or if mitigating circumstances caused the payment to be late. Exceptions must be documented by the servicer.
- As a reminder, forbearance periods may not extend past the last scheduled payment date of the mortgage loan.
- A borrower must be evaluated for all foreclosure prevention alternatives including HAMP following the Fannie Mae Workout Hierarchy at the earlier of re-employment or 30 calendar days prior to the expiration of the Unemployment Forbearance plan.
- Borrowers who are not eligible for Unemployment Forbearance must be evaluated for another foreclosure prevention alternative including HAMP following the Fannie Mae Workout Hierarchy. When evaluating for another foreclosure prevention alternative, the servicer must exclude from monthly gross income any unemployment benefits and any other temporary sources of income related to unemployment, such as severance payments.

The Unemployment Forbearance period must be terminated if:

- Any of the eligibility criteria and terms stated above are no longer met.
- The borrower advises the servicer that he or she has become employed or is no longer actively seeking employment.

The servicer must establish written policies and procedures relating to Unemployment Forbearance plans that describe:

- Determining the borrower's employment status.
- Determining when an Unemployment Forbearance plan requires a payment and documenting how the payment amount is determined.
- Terminating any existing HAMP or non-HAMP Trial Period Plan when a borrower accepts an offer for an Unemployment Forbearance plan.
- Determining when to apply discretion or business judgment as outlined in this Announcement.
- Detailing communication with borrowers related to Unemployment Forbearance plans.
- Ensuring well-documented servicer system notes (including but not limited to date, names of contact person, and a summary of the conversation) will constitute appropriate documentation. Written correspondence must be retained in an accessible manner and made available upon request.
- Following the timelines for reviewing the Borrower Response Package, sending appropriate notices,

and other requirements as described in Announcement SVC-2011-08R.

#### **Extending the Forbearance Term**

If during the final month of the initial Unemployment Forbearance period, the borrower remains unemployed, the servicer must determine if the borrower is eligible for an extension of Unemployment Forbearance.

#### **Documentation**

##### ***Unemployment Forbearance***

- The servicer may make a decision on the initial Unemployment Forbearance based on verbal information. The servicer must document its reasons for approving the initial Unemployment Forbearance in the mortgage loan file.
- If the borrower submitted a Borrower Response Package, the servicer must review the Borrower Response Package and evaluate the borrower for the initial Unemployment Forbearance consistent with Fannie Mae's evaluation requirements as indicated in Announcement SVC-2011-08R.

##### ***Extending Unemployment Forbearance***

- To be considered for an extension of the initial Unemployment Forbearance term, the borrower must submit a Borrower Response Package prior to the end of the initial Unemployment Forbearance term. If the borrower submitted a complete Borrower Response Package at the time of the initial Unemployment Forbearance review, the servicer is only required to update the income and asset information that the borrower provided on the original Form 710. The servicer may update the income and asset information based upon verbal confirmation from the borrower and must document the servicing file with the updated information.
- The servicer must comply with all evaluation and notice requirements as indicated in Announcement 2011-08R for extended Unemployment Forbearance, regardless of whether the servicer receives a Borrower Response Package or uses verbal updates to an earlier Borrower Response Package.

by the terms of the Unemployment Forbearance.

#### **Late Fees**

Servicers are reminded that late charges may accrue while the servicer is determining borrower eligibility for an Unemployment Forbearance plan. However, the servicer must not accrue or assess late charges to the borrower during the forbearance period. Additionally, all accrued and unpaid late charges must be waived if the borrower receives a permanent Fannie Mae HAMP or Fannie Mae non-HAMP modification.

#### ***Reporting to Treasury for Mortgage Loans that were in an Active Trial Plan***

If the borrower is currently in a Fannie Mae HAMP Trial Period Plan and enters into an Unemployment Forbearance plan, the servicer must terminate the Fannie Mae HAMP Trial Period Plan with the Making Home Affordable® program administrator.

#### ***Reporting to Credit Bureaus***

The servicer should continue to report a "full-file" status report to the four major credit repositories for each mortgage loan in an Unemployment Forbearance plan in accordance with the Fair Credit Reporting Act and credit bureau requirements as provided by the Consumer Data Industry Association. Full-file reporting must continue if the Unemployment Forbearance arrangement is extended and must continue to the end of the Unemployment Forbearance plan. (*ann. svc-2012-01*)