

*Supplemental Directive 12-07**November 1, 2012**Home Affordable Foreclosure Alternatives[®] Program – Policy Update*

In February 2009, the Obama Administration introduced the Making Home Affordable[®] Program (MHA) to stabilize the housing market and help struggling homeowners get relief and avoid foreclosure. In March 2009, the U.S. Department of the Treasury (Treasury) issued uniform guidance for loan modifications by participants in MHA[®] across the mortgage industry and subsequently updated and expanded that guidance to include the Home Affordable Foreclosure Alternatives Program (HAFA) to provide borrowers with an alternative to foreclosure through a short sale or deed-in-lieu (DIL) of foreclosure when a loan modification is not available. In August 2012, Treasury issued version 4.0 of the Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages (*Handbook*), a consolidated resource for guidance related to the MHA Program for mortgage loans that are not owned or guaranteed by Fannie Mae and Freddie Mac (Non-GSE Mortgages).

This Supplemental Directive provides policy enhancements to HAFA[®] for the purpose of better aligning HAFA guidance with recent short sale guidance issued by Fannie Mae and Freddie Mac. Significant program changes in this guidance are as follows:

- Use of certain HAFA documents will now be optional rather than mandatory, so long as the servicer communicates essential HAFA terms to the borrower in some written form.
- Borrowers who request HAFA consideration and are ninety (90) days or more delinquent and have a FICO score that is less than 620, will be deemed to have a “pre-determined” hardship. Borrowers with a pre-determined hardship must execute a Hardship Affidavit prior to closing of the HAFA transaction; however, servicers will not be required to further validate the hardship.
- Treasury will now require both the seller (borrower) and purchaser in a HAFA short sale transaction to execute a new HAFA affidavit prior to closing that certifies, among other attestations, that the sale represents an arms-length transaction and that no money is being given or received that is not reflected on the HUD 1 Settlement Statement.
- The time frame for servicers to make a decision on a borrower’s request for HAFA has generally been shortened to 30 calendar days.
- Treasury is increasing the incentive it will provide for permitting gross proceeds to be used to pay subordinate mortgage liens.
- The current prohibition against resale of a property for 90 calendar days following a HAFA closing is being changed to prohibit any resale within 30 calendar days and prohibiting a resale for more 120% of the HAFA short sale price between 31 and 90 calendar days of the HAFA closing.

This Supplemental Directive amends and supersedes the notated portions of the *Handbook*. Except as noted herein, it is effective February 1, 2013; however, servicers may begin to implement the changes outlined in this Supplemental Directive immediately.

This guidance does not apply to mortgage loans that are owned or guaranteed by Fannie Mae or Freddie Mac, insured or guaranteed by the Veterans Administration, insured or guaranteed by the Department of Agriculture's Rural Housing Service or the Federal Housing Administration.

This Supplemental Directive covers the following topics:

- Program Cut-Off Date
- HAFA Matrix
- HAFA Documentation
- Consideration of Borrowers Requesting a Pre-Approved HAFA Short Sale or DIL
- Pre-Approved HAFA Short Sale Effective Date and Duration
- Terms of Pre-Approved HAFA Short Sale
- Responding to a Sales Contract Subject to a Pre-Approved HAFA Short Sale
- Responding to a Sales Contract Prior to Pre-Approval of a HAFA Short Sale
- HAFA Affidavit
- Relocation Assistance
- Limitations on Resale
- DIL
- Investor Reimbursement of Subordinate Lien Release
- Reporting

Program Cut-Off Date

In Supplemental Directive 12-02, Treasury announced it was extending the deadline for eligibility in MHA, including HAFA. This Supplemental Directive amends such guidance to provide that in order for a loan to be eligible for HAFA a written request (mail, fax or e-mail) requesting consideration for a short sale or deed-in-lieu (DIL) must be submitted by the borrower to the servicer on or before December 31, 2013. This Supplemental Directive eliminates the alternative of receipt of a fully executed Short Sale Agreement (SSA) or DIL Agreement, in the forms posted on HMPAdmin.com. The guidance that the HAFA short sale or DIL must have a transaction closing date on or before September 30, 2014, remains effective.

HAFA Matrix

Pursuant to Chapter IV, Section 3.2 of the *Handbook*, each servicer must complete and post to its website a matrix that identifies the servicer's unique HAFA eligibility criteria and program rules (HAFA Matrix). The format of the HAFA Matrix is being updated to take into account the provisions of this Supplemental Directive and will be posted to HMPAdmin.com. No later than the effective date of this Supplemental Directive, each servicer must, as necessary, update and post its revised HAFA Matrix to its website that takes into account those provisions. The topics and language in the HAFA Matrix continue to be provided only as an example of what a servicer might include as an aspect of its HAFA policy that is unique.

HAFAs Documentation

Currently, servicers are required to use the HAFAs documents posted on HMPAdmin.com or forms that are substantially similar in content to the forms provided. Effective immediately, servicers are not required to use the following forms: SSA, DIL Agreement, Request for Approval of Short Sale (RASS) and Alternative Request for Approval of Short Sale (Alt RASS).

The SSA form will be converted from a bilateral agreement to a form of notice that sets forth the terms upon which the servicer will approve a HAFAs short sale but does not require the borrower to sign and return an agreement. The updated version of the SSA will be referred to as the Short Sale Notice (SSN) and will be posted to HMPAdmin.com. Servicers are encouraged but not required to use the SSN when pre-approving a HAFAs short sale. If a servicer elects not to use the SSN, the terms of any pre-approved HAFAs short sale must be communicated to the borrower in writing and such writing must include all terms described in the *Handbook* Chapter IV, Section 7.4 as amended by this guidance.

The forms of the Request for Approval of Short Sale (RASS) and Alternative Request for Approval of Short Sale (Alt RASS) are being eliminated. The HAFAs short sale terms included in the Alt RASS will be included in a new Acknowledgment of Request for Short Sale (ARSS) document that will be posted to HMPAdmin.com. If a borrower has an executed sales contract and requests the servicer to approve a short sale before issuance of an SSN or other HAFAs pre-approval, servicers must acknowledge the request in writing, using the ARSS or other writing containing substantially the same terms as set forth in the ARSS, all as described below.

The form DIL Agreement has not been changed though its use is now optional as more fully described in this Supplemental Directive.

Consideration of Borrowers Requesting a Pre-Approved HAFAs Short Sale or DIL

As currently set forth in Chapter IV, Section 6.1.1, all borrowers requesting assistance under HAFAs must submit an executed Treasury Hardship Affidavit that includes the Dodd-Frank Certification required by Treasury in connection with Section 1481 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) in the form on HMPAdmin.com (Hardship Affidavit). Alternatively, based on an investor's policy, a servicer may require delivery of a Request for Mortgage Assistance (RMA) in the form posted on HMPAdmin.com. For ease of reference, throughout this Supplemental Directive these documents will collectively be referred to as the Hardship Affidavit.

Borrowers Who Have Provided a Hardship Affidavit

If a borrower that requests pre-approval for a HAFAs short sale or DIL has previously submitted an executed Hardship Affidavit, the servicer must within 30 calendar days of such request, consider the borrower for HAFAs and provide written notification of the borrower's eligibility for, and the terms of, a pre-approved HAFAs short sale or DIL or, if the borrower is not eligible for

HAFA, provide written notification of either (1) the borrower's eligibility for, and the terms of, a proprietary short sale or DIL or (2) non-approval of any short sale or DIL.

Borrowers Who Have Not Provided a Hardship Affidavit

For a borrower that requests pre-approval for a HAFA short sale or DIL, has not previously executed a Hardship Affidavit and has a "Pre-Determined Hardship" (i.e. is delinquent on his or her mortgage by 90 days or more and has a FICO score below 620), the servicer must within 30 calendar days of receiving the request, consider the borrower for HAFA and provide written notification of the borrower's eligibility for, and the terms of, a pre-approved HAFA short sale or DIL or, if the borrower is not eligible for HAFA, provide written notification for either (1) the borrower's eligibility for and the terms of, a proprietary short sale or DIL or (2) non-approval of any short sale or DIL. If the borrower is approved for a HAFA short sale or DIL, a Hardship Affidavit must be delivered to the borrower with instructions that it must be executed prior to and as a condition of the closing of the HAFA short sale or DIL transaction.

If a borrower that requests a short sale or DIL has not previously executed a Hardship Affidavit, and does not satisfy the Pre-Determined Hardship parameters, the servicer must within 10 business days of receipt of the request, send written confirmation to the borrower acknowledging the request. The acknowledgement must include a copy of the Hardship Affidavit, a description of the servicer's HAFA evaluation process and a timeline for decision, which must be no later than 30 calendar days from the servicer's receipt of the Hardship Affidavit.

Pre-Approved HAFA Short Sale Effective Date and Duration

As described below, the terms of the HAFA short sale sent to the borrower in writing must include a commitment by the servicer that such terms will remain in effect for not less than 120 calendar days from the date on which the servicer sends the borrower the pre-approval terms (Short Sale Effective Date).

Terms of the Pre-Approved HAFA Short Sale

The terms of the pre-approved HAFA short sale must be communicated to the borrower in writing. Servicers are encouraged but not required to use the SSN. If a servicer elects to use a proprietary short sale notice or other written pre-approval communication, it must include the items described in Chapter IV, Section 7.4 of the *Handbook* which section is amended to include the following existing HAFA short sale terms which are currently found in other sections of Chapter IV.

- *If applicable*, the terms of any sale approved by the servicer that provides an option for the property to be sold to a non-profit organization with the stated purpose that the property will be rented or sold to the borrower;
- Provisions informing the borrower that if he or she intends to request relocation assistance for any non-borrower occupant in accordance with Chapter IV, Section 6.2.5 of the *Handbook*, the borrower will need to provide evidence of occupancy and Non-

Borrower Occupant Certification(s) (in the form(s) on HMPAdmin.com) as well a borrower Dodd-Frank Certification, regardless of whether the borrower or some other party is receiving the HAFA relocation assistance;

- Notification to the borrower of those items that he or she must submit when the borrower receives an executed sale contract (Offer Documents), for example, a copy of the executed sales contract and all addenda, buyer's documentation of funds or pre-approval or commitment letter on letterhead from a lender and information regarding the status of subordinate liens and/or negotiations with subordinate lien holders;
- A requirement that, if not already provided, the borrower must execute a Hardship Affidavit as a condition of closing;
- A statement that if the borrower has a real estate license, he or she cannot earn a commission selling his or her own property and may not have any agreement to receive all or a portion of the commission after closing;
- A statement that while the borrower performs in accordance with the terms of the pre-approved HAFA short sale, the servicer will not complete a foreclosure sale; provided, however, the servicer may initiate or continue the foreclosure process as permitted by the mortgage documents;
- A requirement that borrowers are responsible for conveying marketable title in accordance with Chapter IV, Section 6.2.4.2 of the *Handbook*;
- A statement that the borrower is responsible for property maintenance and repair until closing; and
- A notice that upon successful closing, the servicer will record a lien release in full satisfaction of the debt.

Additionally, the HAFA short sale terms described in Chapter IV, Section 7.4 of the *Handbook* will be expanded to include:

- A requirement that the borrower (as the seller) and the buyer(s) must execute a HAFA Affidavit prior to and as a condition of closing; and
- A change to the existing guidance on re-sale limitations that is described below.

Finally, as the pre-approval of a HAFA short sale is a unilateral document, the requirement that the SSN or other writing pre-approving HAFA short sale terms include borrower authorization of the servicer's communication of the borrower's personal financial information to other parties as necessary to complete the transaction will be removed from Chapter IV, Section 7.4 of the *Handbook*. Servicers are advised to obtain from the borrower all consents each servicer deems legally necessary before disclosing personal financial information to other parties including Treasury and its agents.

Responding to a Sales Contract Subject to a Pre-Approved HAFA Short Sale

If the net sales proceeds available for payment to the servicer from a pre-approved HAFA short sale, equal or exceed the Minimum Net established by the servicer prior to issuing the SSN or other written pre-approval of HAFA short sale terms, and the offer meets all other terms and conditions of the pre-approval, the servicer must notify the borrower of the servicer's approval of the sale within 10 business days of receipt of the Offer Documents. If the net sale proceeds available for payment to the servicer are less than the Minimum Net or the offer fails to meet the other terms and conditions of the pre-approval, the servicer must, within 10 business days of receipt of the Offer Documents notify the borrower of the servicer's approval or disapproval of the offer or intent to make a counter-offer. If the servicer elects to make a counter-offer, the servicer has 30 calendar days from the date of the servicer's receipt of the Offer Documents to make the counter-offer.

Responding to a Sales Contract Prior to Pre-Approval of a HAFA Short Sale

A borrower may deliver an executed sales contract to the servicer and request approval under HAFA before the servicer has provided the borrower with written pre-approval of a HAFA short sale.

Acknowledgement

Within 10 business days of receipt of an executed sales contract where the borrower has not previously received the servicer's pre-approval of a HAFA short sale, the servicer must send to the borrower written acknowledgement of the request for short sale approval using the ARSS or a form that is substantially similar in content. For borrowers who have not submitted an executed Hardship Affidavit, the servicer must also include the Hardship Affidavit with the acknowledgement.

Timing of Decision

If the servicer has previously received a Hardship Affidavit from the borrower, the servicer must verify the borrower's eligibility for HAFA and approve or disapprove the executed sales contract or make a counter-offer in writing within 30 calendar days of receipt of the Offer Documents.

If a borrower who has not executed a Hardship Affidavit but satisfies the Pre-Determined Hardship parameters requests approval of an executed sales contract, the servicer must verify the borrower's eligibility for HAFA and approve or disapprove the executed sales contract or make a counter-offer in writing within 30 calendar days of receipt of the Offer Documents, however, execution of the Hardship Affidavit must be a condition of the approval and must be completed prior to sale closing.

If a borrower who has not executed a Hardship Affidavit and does not satisfy the Pre-Determined Hardship parameters requests approval of an executed sales contract, the servicer must approve or disapprove the executed sales contract or make a counter-offer in writing within 30 calendar

days of receipt of the executed Hardship Affidavit. Upon receipt of the Hardship Affidavit, servicers must validate the borrower's hardship and eligibility for HAFA.

HAFA Affidavit

A new condition of closing any HAFA short sale transaction is the delivery of a Short Sale Affidavit (HAFA Affidavit). In the HAFA Affidavit, the parties make certain representations regarding the arm's-length nature of the transaction, property occupancy and the accuracy of the HUD-1 Settlement Statement as well as acknowledge limitations on future resale of the property. The HAFA Affidavit must be signed by all borrowers (as the seller) and all buyers of a property subject to a HAFA short sale, prior to and as a condition of the closing. The HAFA Affidavit will be posted to HMPAdmin.com.

Relocation Assistance

If the borrower seeks relocation for himself or herself, a tenant or other non-borrower occupant in accordance with Chapter IV, Section 6.2.5 of the *Handbook*, the borrower must provide the servicer with evidence satisfactory to the servicer that the borrower, tenant or other non-borrower occupant was residing in the property as a principal residence. Current guidance requires that the occupancy be as of the date the borrower executed the SSA or Alt RASS. That guidance is amended to reflect the occupancy date as the date the borrower requested a HAFA short sale or DIL or approval of an executed sales contract, as applicable.

Limitations on Resale

Chapter IV, Section 7.4 of the *Handbook* includes a condition that the purchaser of a property subject to a HAFA short sale must agree not to resell the property within 90 calendar days of closing. This provision is amended to prohibit any resale of the property within 30 calendar days of closing and further prohibit any resale of the property for 31 to 90 calendar days after closing for a gross sales price greater than 120 percent of the gross sales price of the HAFA transaction.

DIL

Chapter IV, Section 9 of the *Handbook* describes conditions and terms under which servicers may accept a DIL as part of HAFA. All references to the SSA in that section are amended to reference the updated SSN or other written pre-approval of a HAFA short sale provided by the servicer.

The terms of a HAFA DIL must be communicated to the borrower in writing, using the Treasury DIL Agreement or other written notice as is consistent with the servicer's HAFA Policy. If a servicer does not use the DIL Agreement, the servicer must communicate to the borrower in writing, the terms contained in the DIL Agreement. Please note that Chapter IV, Section 9.2 of the *Handbook* currently does not delineate all the terms of the DIL Agreement. As shown in the mapping attached hereto, Section 9.2 will be updated to describe all the terms that must be communicated to the borrower, all of which are in the Treasury form of DIL Agreement. While the Treasury form DIL Agreement includes the borrower's signature, the borrower's signature is

not required if the servicer elects to use a unilateral form of notice rather than a bilateral DIL agreement.

Investor Reimbursement for Subordinate Lien Release

As first stated in Supplemental Directive 12-02, up to \$8,500 of gross sales proceeds may be applied to pay subordinate mortgage lien holders in exchange for a release of the lien and waiver of borrower liability. Investors are eligible for reimbursement of one dollar for every three dollars of short sale proceeds paid to a subordinate mortgage lien holder up to \$2,000. This guidance increases the investor incentive to provide that for a HAFA short sale that closes on or after December 1, 2012 the investor will be reimbursed two dollars for every three dollars of short sale proceeds paid to a subordinate mortgage lien holder not to exceed a total of \$5,000.

Reporting

As set forth in Chapter IV, Section 11.1 of the *Handbook*, “Notification” is a key milestone that must be reported into the HAMP Reporting Tool. This Supplemental Directive amends the definition of the term “Notification” to provide that the servicer is to report into the HAMP Reporting Tool when the terms of the HAFA short sale or DIL are conveyed in writing to the borrower or updated following an extension of the marketing terms.

Updated HAFA payment processes implementing the terms of this Supplemental Directive are currently under development by the Program Administrator. Subsequent guidance on such processes will be provided on HMPAdmin.com. For a closed HAFA short sale or DIL transaction on and after the effective date of this Supplemental Directive, servicers should continue to report their “Short Sale/DIL Loan Set Up”. Until payment processes implementing the terms of this Supplemental Directive are in place, the Program Administrator will continue to remit the reimbursement for subordinate lien releases under the existing compensation matrix. Upon implementation of such payment processes, the Program Administrator will make a one time adjustment payment to “true-up” the reimbursement for such transactions in accordance with the terms of this Supplemental Directive.

Exhibit A

MHA Handbook Mapping

I. CONFORMING CHANGES TO EXISTING HANDBOOK SECTIONS

The following guidance amends and supersedes the notated portions of the Handbook. Changed or new text is indicated in italics. Text that has been lined out has been deleted.

A. The third through eighth bullets in Section 2.2.3 of Chapter I are amended as follows:

- The date and outcome of the consideration and evaluation for foreclosure alternatives under HAFA and specific justification with supporting details if foreclosure alternatives were denied under HAFA including, if utilization of HAFA was prohibited by investor guidance, the applicable investor restriction or prohibition that prevented the servicer from offering a borrower a HAFA foreclosure alternative and all records related to the termination of the ~~SSA~~ *terms of the pre-approved HAFA short sale* or expiration of HAFA transactions without a completed short sale or acceptance of a DIL.
- All documents and information related to the extinguishment and release of subordinate liens in accordance with applicable laws.
- All documents and information received during the process of determining borrower eligibility, including evidence of receipt of required documents such as the Hardship Affidavit or RMA, ~~and RASS or Alternative RASS~~ as well as the evidence used to determine if the property was vacant or evidence that a borrower has voluntarily elected to continue to make a full contractual payment during the marketing period.
- All documents and information related to the terms of the ~~SSA~~ *pre-approved short sale* or, *where there is not a pre-approved short sale, approval of an executed sales contract including, but not limited to, issuance, as applicable, of the SSN, ARSS and HAFA Affidavit* ~~the Alternative RASS~~.
- If a borrower will be renting or re-purchasing the property sold to a non-profit organization, evidence that such organization is a non-profit.
- If the transaction is eligible for relocation incentives, documentation of the occupancy at the time the *borrower requested a HAFA short sale or DIL or approval of the terms of an executed sales contract (if an SSN or DIL Agreement has not been issued)* ~~SSA, Alternative RASS or DIL Agreement was executed~~; documentation that the occupant will be required to vacate the property as a result of the short sale or DIL, and the Dodd-Frank Certification *and, if applicable, the Non-Owner Occupant Certificate* executed by such party or parties.

B. The seventh row of the table in Section 2 of Chapter IV is amended as follows:

Program cut-off date	The borrower has submitted either (i) a fully executed HAFA Short Sale Agreement (SSA) or Deed in Lieu (DIL) Agreement, or (ii) a written request (mail, fax or e-mail) for consideration for a <i>short sale or deed in lieu (DIL) or, before pre-approval of a HAFA short sale, written request for approval of an executed sales contract SSA or DIL Agreement or Alternative Request for Approval of Short Sale (Alternative RASS)</i> on or before December 31, 2013 and the transaction closing date is on or before September 30, 2014.
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C. Section 3.3 of Chapter IV is amended as follows (note – the original text that is being amended can be found in Exhibit A of Supplemental Directive 12-05):

3.3 Consideration of Borrowers for HAFA

Servicers must consider possible HAMP-eligible borrowers for HAFA within 30 calendar days of the date the borrower:

- Does not qualify for a TPP (HAMP Tier 1 or Tier 2);
- Does not successfully complete a TPP and is not being evaluated for another modification (i.e., HAMP Tier 2 or proprietary modification); or
- Loses good standing on a HAMP modification as long as the borrower is not being evaluated for another modification (i.e., HAMP Tier 2 or proprietary modification).

If a borrower who is requesting (whether such request is in response to a servicer’s solicitation under the first paragraph of Section 4 or initiated by the borrower) pre-approval for a HAFA short sale or DIL has previously submitted an executed Hardship Affidavit or RMA, the servicer must within 30 calendar days of such request consider the borrower for HAFA and provide written notification of the borrower’s eligibility for, and the terms of, a pre-approved HAFA short sale or DIL or, if the borrower is not eligible for HAFA, provide written notification of either (1) the borrower’s eligibility for, and the terms of, a proprietary short sale or DIL or (2) non-approval of any short sale or DIL.

For a borrower that requests (whether in response to a servicer’s solicitation under the first paragraph of Section 4 or initiated by the borrower) a short sale or DIL but has not previously executed a Hardship Affidavit or RMA and has a “Pre-Determined Hardship” (i.e., is delinquent on his or her mortgage by 90 days or more and has a FICO score below 620), the servicer must within 30 calendar days of receiving the request consider the borrower for HAFA and provide written notification of the borrower’s eligibility for, and the terms of, a pre-approved HAFA short sale or DIL or, if the borrower is not eligible for HAFA, provide written notification of either (1) the borrower’s eligibility for, and the terms of, a proprietary short sale or DIL or (2) non-approval of any short sale or DIL. If a borrower is approved for a HAFA short sale or DIL,

a Hardship Affidavit must be delivered to the borrower with instructions that it must be executed prior to and as a condition of the closing of the HAFA short sale or DIL transaction. If the servicer is unable to respond within the 30-calendar day period, the servicer must send a written status notice to the borrower on or before the 30th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide either an SSN or DIL Agreement, as applicable, or written notification that the borrower is eligible for a proprietary short sale or deed in lieu (if the borrower is not eligible under HAFA) or will not be offered a short sale or DIL under HAFA.

If a borrower that requests (whether in response to a servicer's solicitation under the first paragraph of Section 4 or initiated by the borrower) a short sale or DIL has not previously executed a Hardship Affidavit, and does not satisfy the Pre-Determined Hardship parameters, the servicer must acknowledging the request and respond to the borrower's request as set forth in Section 4.1. ~~If a borrower requests a short sale or DIL (whether such request is in response to a servicer's solicitation under the first paragraph of Section 4 or initiated by the borrower), within 45 days of such request the servicer must consider the borrower for HAFA and send the SSA, DIL Agreement, a written notification that the borrower will not be offered a SSA or DIL or a written response to the Alternative RASS, in accordance with Section 4.2 and Section 7.4.~~

In all cases, eEvidence of a borrower's request must be provided by postmark or other independent indicator such as a date and time stamp (electronic or otherwise) evidencing submission by the borrower on or before December 31, 2013.

Borrowers in active Chapter 7 or Chapter 13 bankruptcy cases must be considered for HAFA if the borrower, borrower's counsel or bankruptcy trustee submits a request to the servicer. With the borrower's permission, a bankruptcy trustee may contact the servicer to request a short sale or DIL under HAFA. Servicers are not required to solicit these borrowers proactively for HAFA. The servicer and its counsel must work with the borrower or borrower's counsel to obtain any court and/or trustee approvals required in accordance with local court rules and procedures. Servicers should extend HAFA timeframes as necessary to accommodate delays in obtaining court approvals or receiving any periodic payment when they are made to a trustee.

Unless prohibited by investor guidelines, servicers should utilize HAFA, rather than a proprietary short sale or DIL option, in all cases where a short sale or DIL is approved by the servicer and the transaction otherwise meets the guidance provided in this Chapter IV.

D. Sections 4, 4.1 and 4.2 of Chapter IV are amended as follows:

4 Communication and Borrower Notices

If the servicer determines that a borrower is eligible for a HAFA offer based on its HAFA Policy and the guidance provided in this Chapter, and the borrower did not initiate the request for a short sale or DIL, the servicer must proactively notify the borrower in writing of the availability of HAFA and allow the borrower 14 calendar days from the date of the notification to contact the servicer by verbal or written communication and request consideration under HAFA. If the borrower fails to contact the servicer ~~within the time frame~~ or at any time indicates that he or she

is not interested in HAFA, the servicer has no further obligation *to solicit the borrower for HAFA. to extend a HAFA offer.*

When a borrower, who was not previously evaluated for HAMP, requests a short sale or DIL, the servicer must evaluate the borrower for HAFA based on its HAFA Policy and the guidance provided in this Chapter. If, as part of this evaluation, the servicer determines that the borrower also meets the HAMP eligibility requirements, the servicer must notify the borrower verbally or in writing of the availability of HAMP and allow the borrower 14 calendar days from the date of the notification to contact the servicer by verbal or written communication and request consideration for HAMP. This notification may be given simultaneously with the servicer's consideration of the borrower for HAFA. If the borrower does not wish to be considered for HAMP, the servicer is not required to send the borrower a Non-Approval Notice under Section 2.3.2 of Chapter II. The foregoing 14 calendar-day response period is only intended to establish a minimum requirement on a servicer's obligation to consider a borrower for HAFA. Servicers may still consider a borrower for HAFA whether or not that borrower responds to the HAFA solicitation within the 14 calendar-day response period.

4.1 ~~Acknowledgment of Borrower Requests~~ *Consideration of Borrowers without a Hardship Affidavit or Pre-Determined Hardship*

If a borrower requests (whether in response to a servicer's solicitation under the first paragraph of Section 4 or initiated by the borrower) a short sale or DIL has not previously executed a Hardship Affidavit, and does not satisfy the Pre-Determined Hardship parameters, ~~W~~ the servicer must, within 10 business days following receipt of either a request for a short sale or DIL or ~~receipt of a request for approval of an executed short sales contract before the servicer has pre-approved a HAFA short sale, an Alternative RASS, the servicer must~~ send written confirmation to the borrower acknowledging the request. The acknowledgment must include a copy of the Hardship Affidavit or, if applicable, RMA, a description of the servicer's HAFA evaluation process and a timeline for decision, which must be no later than ~~45~~ 30 calendar days from the servicer's receipt of the Hardship Affidavit and, if applicable, RMA ~~the date of the request~~. If the servicer is unable to respond within the 30-calendar day period, the servicer must send a written status notice to the borrower on or before the 30th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide either a SSN or DIL Agreement, as applicable, or written notification that the borrower is eligible for a proprietary short sale or deed in lieu (if the borrower is not eligible under HAFA) or will not be offered a short sale or DIL under HAFA.

4.2 Notice for Borrowers not Eligible for HAFA

When a HAFA short sale or DIL is not available, the servicer must communicate this decision in writing to any borrower that requested consideration *or inform the borrower of the borrower's eligibility for a proprietary short sale or DIL alternative. If no short sale or DIL is available, ~~F~~ the notice must explain why a short sale or DIL under HAFA cannot be offered, provide a toll free telephone number that the customer may call to discuss the decision and otherwise comply with the notice requirements set forth in Section 2 of Chapter II.*

E. The third through sixth bullets of Section 5 of Chapter IV are amended as follows:

- ~~• While awaiting the timely return of a fully executed SSA.~~
- ~~During the term of a fully executed SSA~~ *While the terms of a pre-approved HAFA short sale are effective.*
- Pending transfer of property ownership based on an approved sales contract ~~per the RASS or Alternative RASS.~~
- Pending transfer of property ownership via a DIL by the date specified *by the servicer in the DIL Agreement or other written DIL notification or agreement*~~in the SSA or DIL Agreement.~~

F. Sections 6.1, 6.1.1 and 6.1.2 are amended as follows:

6.1 HAFA Evaluation

Once the servicer has determined that a borrower is eligible for a HAFA offer based on its HAFA Policy and the guidance provided in this Chapter, the servicer must complete the following actions prior to issuing *a writing detailing the pre-approved terms of a HAFA short sale or DIL*~~an SSA or DIL Agreement~~. *The writing detailing the pre-approved terms of the HAFA short sale is referred to herein as a Short Sale Notice (SSN) and servicers may use the form SSN posted on www.HMPAdmin.com or other written communication, provided that all the information contained in Section 7.4 is included in such communication. Servicers may use the form DIL Agreement posted on www.HMPAdmin.com or their own written communication of the terms of a DIL as provided in their respective HAFA Policy, provided that all the information contained in Section 9.2 is included in such written communication.*

6.1.1 Documentation Requirements and Borrower Financial Information

If a borrower's hardship information is documented and verified as part of the HAMP evaluation and the servicer is in possession of a signed Hardship Affidavit or RMA, no additional financial or hardship assessment is required under HAFA. However, in accordance with a servicer's HAFA Policy, the servicer may request updated financial information to evaluate the borrower.

When a borrower who was not previously evaluated for HAMP requests a short sale or DIL, the servicer must determine the basic eligibility of the borrower as set forth in Section 2 and must obtain a completed Hardship Affidavit or, *if required by the servicer's HAFA Policy, an RMA* to verify that the borrower has experienced a hardship. *The requirements for delivery of such document(s) are described above in Section 3.3 (for a borrower with a Pre-Determined Hardship) and Section 4.1 (for a borrower without a Pre-Determined Hardship).*

If the borrower is requesting relocation incentive compensation in accordance with Section 6.2.5, the servicer must require the borrower to provide evidence of occupancy and when applicable, a Dodd-Frank Certification(s) from occupants *(which in the case of a non-borrower occupant must*

be in the form of the “Non-Borrower Occupant Certificate” posted on www.HMPAdmin.com). The servicer is not required to:

- Obtain an IRS Form 4506-T or 4506T-EZ, unless it is necessary to verify the borrower’s income;
- *Conduct any further validation of hardship if a borrower meets the Pre-Determined Hardship criteria described in Section 4.1;*
- Evaluate the mortgage loan using the NPV test; or
- Apply the standard or alternative modification waterfalls set forth in Section 6.3 and Section 6.4 of Chapter II, respectively.

6.1.2 Property Valuation

The servicer must, independent of the borrower and any other parties to the transaction, assess the current value of the property in accordance with the investor’s guidelines. Each servicer’s HAFA Policy must include the procedures it will follow to periodically re-evaluate property value and to reconcile discrepancies between the servicer’s independent assessment of value and market value data provided by the borrower or the borrower’s real estate broker. To the extent the new value determination is less than the value determination used in the *SSN/SSA*, the servicer must notify the borrower and/or the borrower’s real estate broker either in writing or verbally of the new value determination, and confirm the new list price or acceptable sale proceeds based on the new value determination. Servicers must document the new value determination in their servicing system and/or the mortgage file together with the updated list price or acceptable sale proceeds, and the communication(s) to the borrower about such changes. While the servicer is not required to amend the *SSN/SSA* to reflect the new list price or acceptable sale proceeds, the servicer must honor the new value determination. Servicers are reminded, however, that in accordance with Section 7.1, after *delivering the pre-approved terms of the short sale to the borrower signing an SSA*, the servicer may not increase the minimum acceptable net proceeds required until the ~~initial SSA termination~~ *expiration date of such terms* is reached.

G. The first sentence of Section 6.2.2 of Chapter IV is amended as follows:

In accordance with its HAFA Policy, the servicer must identify in the *SSN, DIL Agreement, any proprietary form DIL notice or agreement or, if provided prior to the issuance of an SSN, written approval of an executed sales contract SSA, Alternative RASS, or DIL Agreement* the amount of the monthly mortgage payment, if any, that the borrower is required to make during the term of the applicable agreement and pending transfer of property ownership, as applicable.

H. The last two paragraphs of Section 6.2.5 of Chapter IV are amended as follows (note – the original text that is being amended can be found in Exhibit A of Supplemental Directive 12-05):

If the borrower seeks relocation assistance for themselves, a tenant or other non-borrower occupant in accordance with this Section, the borrower must provide the servicer with evidence satisfactory to the servicer that the borrower, tenant or other non-borrower occupant was residing in the property as a principal residence as of the date the borrower *requests a HAFAshort sale or DIL or approval of an executed sales contract*~~executed the SSA or Alternative RASS~~. Such evidence may include but is not limited to, property inspections conducted by or on behalf of the servicer, lease agreements, utility bills, etc. Additionally, the borrower must ensure that a Dodd-Frank Certification (described in Section 1.7 of Chapter I) and, if applicable, “Non-Owner Occupant Certification,” in each case executed respectively by the borrower and, if applicable, each occupant that will receive relocation assistance, is delivered to the servicer in advance of the transaction settlement date. A servicer may not authorize a closing that includes HAFAs relocation assistance unless and until the servicer has received satisfactory evidence of occupancy and executed Dodd-Frank Certification(s) *and, if applicable, Non-Owner Occupant Certification* and the assistance payment is accurately reflected on the HUD-1.

To provide the least disruption in real estate closings, the servicer in its HAFAs policy may establish a minimum number of days in advance of closing by which any Dodd-Frank Certification *and, if applicable, Non-Owner Occupant Certification* from an occupant of a rental property must be received by the servicer and must communicate this information to the borrower *in the SSN, DIL Agreement, any proprietary form DIL notice or agreement or, if provided prior to the issuance of an SSN, the approval of an executed sales contract*~~upon acceptance of the SSA, Alternative RASS or DIL Agreement~~.

I. The second sentence of Section 7 of Chapter IV is amended as follows:

Servicers must adhere to the following guidelines in connection with the issuance of an ~~SSN~~SSA.

J. The second paragraph of Section 7.1 of Chapter IV is amended as follows:

Once determined, the servicer must document the minimum net in the servicing system and/or mortgage file for each property subject to HAFAs. After *sending the SSN*~~signing an SSA~~, the servicer may not increase the minimum net requirement until the initial ~~SSA termination~~ date *for expiration of the pre-approved HAFAs short sale terms* is reached (not less than 120 calendar days *from the date the servicer sends the SSN to the borrower*). Subsequent changes to the minimum net pursuant to the provisions of Section 6.1.2, or when *the expiration date for the pre-approved HAFAs short sale terms* ~~the SSA~~ is extended, must be documented.

K. The second sentence in Section 7.2 of Chapter IV is amended as follows:

The servicer must describe the costs that may be deducted from the gross sale proceeds in the ~~SSN~~SSA.

L. Section 7.4 of Chapter IV is amended as follows:

At the request of an eligible borrower (whether the request is in response to the servicer's notification as described in the first paragraph of Section 4 or was initiated by a borrower), the servicer will prepare and send *a SSN* ~~an SSA~~ to the borrower after determining that the proposed sale is in the best interest of the investor. The servicer must complete and send the *Hafa pre-approval SSA* to the borrower *within the time frames set forth in 3.3 or 4.1, as applicable.* ~~no later than 45 calendar days from the date the borrower responds affirmatively to the servicer's Hafa solicitation described in the first paragraph of Section 4. Alternatively, if a borrower initiates a request for a short sale or DIL, the servicer must evaluate the borrower's eligibility for Hafa and, if eligible, must complete and send the SSA or DIL Agreement to the borrower no later than 45 calendar days from the date of the borrower's request for a short sale or DIL. If the servicer is unable to respond within the 45-calendar day period, the servicer must send a written status notice to the borrower on or before the 45th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide either an SSA or a DIL Agreement, as applicable, or written notification that the borrower will not be offered a short sale or DIL.~~

A borrower may not participate in a TPP and *be offered a Hafa pre-approved short sale* ~~agree to an SSA~~ simultaneously. ~~The servicer will also provide the borrower a RASS, pre-populated with contact information for the servicer, the property address and the loan number.~~

Servicers are encouraged to use the form SSN posted on www.HMPAdmin.com to communicate pre-approval of a Hafa short sale. ~~While s~~ Servicers may amend the terms of the SSN in accordance with investor guidelines, applicable laws or local real estate practice. *If a servicer elects to use a proprietary form of SSN and not Treasury's form, at a minimum the servicer's SSN SSA must include the following:*

- A fixed termination date not less than 120 calendar days from the effective date of the ~~SSN~~SSA (SSN Effective Date). The SSN Effective Date must be stated in the ~~SSN~~SSA and is the date the ~~SSA~~ SSN is mailed (*or otherwise delivered*) to the borrower. The term ~~of the SSA~~ may be extended at the discretion of the servicer up to a total term of 12 months if agreed to by the borrower, in accordance with investor guidelines.
- A requirement that the property be listed with a licensed real estate professional who is regularly doing business in the community where the property is located.
- Either a list price approved by the servicer or the acceptable sale proceeds, expressed as a net amount after subtracting allowable costs that the servicer will accept from the transaction.
- *Notice that the borrower is responsible for property maintenance and repair from the SSN Effective Date until closing of the short sale transaction and will be responsible for conveying marketable title in as described in Section 6.2.4.2.*
- The amount of closing costs or other expenses the servicer will permit to be deducted from the gross sale proceeds expressed as a dollar amount, a percentage of the list price or a list by category of reasonable closing costs and other expenses that the servicer will permit to be deducted from the gross sale proceeds.

- The amount of the real estate commission that may be paid, not to exceed six percent of the contract sales price, and when applicable, notification that the servicer retained a contractor or vendor to assist the listing broker with the transaction and a statement that any associated vendor fees will not be charged to the borrower or deducted from the real estate commission along with the payment amount (expressed as a fixed dollar amount or percentage of the contract sales price) if paid from sale proceeds. *Furthermore, a statement informing the borrower that a borrower with a real estate license cannot earn a commission selling his or her own property and may not have any agreement to receive all or a portion of any real estate commission after closing.*
- ~~A statement by the borrower authorizing the servicer to communicate the borrower's personal financial information to other parties (including Treasury and its agents) as necessary to complete the transaction.~~
- Cancellation and contingency clauses that must be included in listing and sale agreements notifying prospective purchasers that the sale is subject to approval by the servicer and/or third parties.
- Notice that (i) the sale must represent an arm's length transaction, ~~and that~~ (ii) the purchaser may not sell the property within ~~90~~ 30 calendar days of closing *and (iii) for the period between 31 and 90 calendar days of the closing, the purchaser is prohibited from selling the property for a gross sales price greater than 120% of the HFA short sale price and (iv) including certification language regarding the arm's length transaction that the prohibitions described in clauses (ii) and (ii) must be included in the sales contract.*
- ~~An agreement~~ Notice that upon successful closing of a short sale acceptable to the servicer, the *servicer will record a mortgage lien release and the borrower will be released from all liability for repayment of the first mortgage debt.*
- When applicable in accordance with Section 6.2.5, an agreement that upon successful closing of a short sale acceptable to the servicer the borrower, tenant or other non-borrower occupant, as applicable, will be entitled to relocation assistance of \$3,000, which will be deducted from the gross sale proceeds at closing; *provided, that the borrower will need to provide evidence of occupancy and for any non-borrower occupant a Non-Borrower Occupant Certification and for borrower a Dodd-Frank certification, regardless of whether the borrower or some other party is receiving the relocation assistance.*
- Notice that the servicer will allow a portion of gross sale proceeds to be paid to subordinate lien holders in exchange for release and full satisfaction of their liens.
- Notice that a short sale may have income tax consequences and/or may have a negative impact on the borrower's credit score and a recommendation that the borrower seek professional advice regarding these matters.
- The amount of the monthly mortgage payment, if any, that the borrower will be required to pay during the ~~term~~ *effective period* of the SSN~~SSA~~, which amount must not exceed 31 percent of the borrower's monthly gross income, unless the borrower elects to make a full contractual payment in order to stay current on the mortgage loan.

- An ~~agreement statement~~ that so long as the borrower performs in accordance with the requirements identified by the servicers in the SSN, ~~terms of the SSA~~, the servicer will not complete a foreclosure sale; however, the servicer may initiate or continue the foreclosure process as permitted by the mortgage documents.
- Terms under which the HFA pre-approval SSA can be terminated.
- The terms of any sale approved by the servicer that provides an option for the property to be sold to a non-profit organization with the stated purpose that the property will be rented or sold to the borrower.
- Notice of those items that the borrower must submit when the borrower receives an executed sales contract (Offer Documents), for example, a copy of the executed sales contract an all addenda, buyer's documentation of funds or pre-approval or commitment letter on letterhead from a lender and information regarding the status of subordinate liens and/or negotiations with subordinate lien holders. The servicer may permit but not require a borrower to deliver a Request for Approval of a Short Sale (RASS) in the form posted at www.HMPAdmin.com.
- Notice that, if not already provided, the borrower must execute a Hardship Affidavit and a HFA Affidavit, each as a condition of closing.

M. Section 7.5 of Chapter IV is amended as follows:

7.5 Borrower ObligationsReserved

~~The borrower must sign and return the SSA within 14 calendar days from the SSA Effective Date along with a copy of the real estate broker listing agreement and information regarding any subordinate liens and the occupancy status of the property. In returning and signing the SSA the borrower agrees to:~~

- ~~Provide all information and sign documents required to verify program eligibility.~~
- ~~Cooperate with the listing broker to actively market the property and respond to servicer inquiries.~~
- ~~Maintain the interior and exterior of the property in a manner that facilitates marketability.~~
- ~~Work to clear any liens or other impediments to title that would prevent conveyance.~~
- ~~Make the monthly payment stipulated in the SSA, if applicable.~~
- ~~Provide evidence of occupancy and Non Borrower Occupant Certification(s) from the occupants of the property if the borrower intends to request relocation assistance for any occupant in accordance with Section 6.2.5. Additionally, the borrower must deliver an executed Dodd Frank Certification, regardless of whether the borrower or some other party is receiving the HFA relocation assistance.~~

N. Section 7.6 of Chapter IV is amended as follows:

During the term of the *SSN SSA*, the servicer may terminate the *terms of the pre-approval SSA* before its expiration due to any of the following events (*as long as such potential events are described in the SSN*):

- The borrower's financial situation improves significantly, the borrower qualifies for a modification, or the borrower brings the account current or pays the mortgage in full.
- The borrower or other occupant(s) in the property, or the listing broker fails to act in good faith in listing, marketing and/or closing the sale, ~~or otherwise fails to abide by the terms of the SSA.~~
- A significant change occurs to the property condition and/or value.
- There is evidence of fraud or misrepresentation.
- The borrower files for bankruptcy and the Bankruptcy Court declines to approve a *sale under the terms of the SSN* ~~the SSA.~~
- Litigation is initiated or threatened that could affect title to the property or interfere with a valid conveyance.
- The borrower fails to make the monthly payment stipulated in the *SSN/SSA*, if applicable.

O. Section 7.7 of Chapter IV is amended as follows:

Within three business days following receipt of an executed purchase offer, the borrower or the listing broker should deliver to the *executed purchase offer and other Offer Documents* ~~servicer a completed Request for Approval of Short Sale (RASS) describing the terms of the sale transaction. With the RASS, the borrower must submit to the servicer:~~

- ~~• A copy of the executed sales contract and all addenda.~~
- ~~• Buyer's documentation of funds or buyer's pre approval or commitment letter on letterhead from a lender.~~
- ~~• All information regarding the status of subordinate liens and/or negotiations with subordinate lien holders.~~

P. Section 7.8 of Chapter IV is amended as follows:

If the net sale proceeds available for payment to the servicer from a pre-approved HAFSA short sale equal or exceed the Minimum Net established by the servicer prior to issuing the SSN and

~~the offer meets all other sales terms and conditions of the pre-approval SSA, Within 10 business days of receipt of the RASS and all required attachments, the servicer must notify the borrower of indicate its approval or disapproval of the proposed sale within 10 business days of receipt of the Offer Documents by signing the appropriate section of the RASS and mailing it to the borrower.~~

If the net sale proceeds available for payment to the servicer are less than the Minimum Net or the offer fails to meet the other sales terms and conditions in the pre-approval, within 10 business days of receipt of the Offer Documents, the servicer must notify the borrower of the servicer's approval or disapproval of the offer or intent to make a counter-offer. If the servicer elects to make a counter-offer, the servicer has 30 calendar days from the date of the servicer's receipt of the Offer Documents to make the counter-offer.

~~The servicer must approve a RASS if the net sale proceeds available for payment to the servicer equal or exceed the Minimum Net determined by the servicer prior to the execution or extension of the SSA and all other sales terms and conditions in the SSA SSN have been met. Servicers are not prohibited under HAFA from accepting a purchase offer that results in net sales proceeds that are lower than the Minimum Net so long as the proposed sale is in the best interests of the investor. Additionally, the servicer may not require, as a condition of approving a short sale, a reduction in the real estate commission below the commission stated in the SS/SSA.~~

The servicer may require that the sale closing take place within a reasonable period following acceptance of the ~~executed sales contract~~RASS, but in no event may the servicer require that a transaction close in less than 45 calendar days from the date of the sales contract without the consent of the borrower.

Q. Section 8 of Chapter IV is amended as follows:

8 ~~Alternative~~ Request for Approval of Short Sale Prior to Issuance of an SSN

If the borrower has an executed sales contract and requests the servicer to approve a short sale under HAFA before ~~the issuance of an SSN an SSA has been executed, then~~ the borrower may ~~must~~ submit the request to the servicer by *delivering the executed sales contract. Within 10 business days of receipt of an executed sales contract, the servicer must send to the borrower written acknowledgement of the receipt of the borrower's request for approval of an executed sales contract using the Acknowledgement of Request for Short Sale (ARSS) in the form posted on www.HMPadmin.com or an other written acknowledgement containing similar in content. The acknowledgement must identify any additional documentation that may be required from the borrower to make the short sale decision and inform the borrower of all applicable short sale terms set forth in Section 7.4. For borrowers who have not submitted a Hardship Affidavit or, if applicable, RMA, the servicer must also include the forms thereof (or otherwise make them available to the borrower through electronic means).* ~~in the form of the Alternative RASS accompanied by a signed Hardship Affidavit or RMA. Upon receipt of the Alternative RASS, evidence of borrower, tenant or other non-borrower occupancy and signed Hardship Affidavit or RMA~~

When considering a borrower's request for approval of an executed sales contract, the servicer must determine the borrower's eligibility as set forth in Section 6.1.1. If the borrower appears to be eligible for HAMP, the servicer must notify the borrower of the availability of HAMP as set forth in Section 4. ~~Additionally, the servicer must acknowledge receipt of the borrower's request for a short sale and the Alternative RASS as set forth in Section 4.1.~~ Evidence of the borrower's request must be provided by postmark or other independent indicator such as a date and time stamp (electronic or otherwise) evidencing submission by the borrower on or before December 31, 2013.

If a borrower has previously submitted an executed Hardship Affidavit or, if applicable, an RMA, ~~within 45~~30 calendar days of receipt of an executed sales contract, ~~Alternative RASS and signed Hardship Affidavit or RMA,~~ the servicer must verify the borrower's eligibility for HAFA and communicate approval or disapproval of the sale, or provide a counter offer ~~on the Alternative RASS form.~~ If a borrower has not previously executed a Hardship Affidavit or, if applicable, an RMA and has a Pre-Determined Hardship, within 30 calendar days of receipt of an executed sales contract, the servicer must verify the borrower's eligibility for HAFA and communicate approval or disapproval of the executed sales contract, or provide a counter offer. If the executed sales contract is approved, an executed Hardship Affidavit must be provided by the borrower prior to and as a condition of the closing of the HAFA short sale. If a borrower has not previously executed a Hardship Affidavit or, if applicable, an RMA and does not have a Pre-Determined Hardship, within 30 calendar days of receipt of an executed Hardship Affidavit, the servicer must verify a borrower's hardship and eligibility for HAFA and communicate approval or disapproval of the sale, or provide a counter offer. If the servicer is unable to respond within the applicable 30-calendar day period, the servicer must send a written status notice to the borrower on or before the 30th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide the approval or disapproval or a counteroffer, as applicable.

If the servicer is unable to respond within *the applicable 45* 30 calendar days the servicer must send a written status notice to the borrower on or before the ~~30th~~45th calendar day, with written updates every 15 calendar days thereafter, until the servicer is able to provide a written response to the ~~borrower's request~~Alternative RASS.

Servicers may not, as a condition of sale, require that the real estate commission stated in the sales contract be reduced to less than six percent of the contract sale price. If a servicer retains a contractor or vendor to assist the listing broker with completion of the transaction, the servicer must *inform the borrower in writing*~~include a statement in the Alternative RASS form~~ that any associated vendor fees will not be charged to the borrower or deducted from the real estate commission.

R. Sections 9.1 and 9.2 of Chapter IV are amended as follows:

9.1 DIL Language in the SSN SSA

The ~~SSA~~SSN may contain language stating that the investor will accept a DIL in accordance with the terms of the ~~SSA~~ SSN if the ~~SSA term of the pre-approved marketing period~~ expires without

resulting in the sale of the property. If this optional DIL language is included, the investor is obligated to accept a DIL following expiration of the *pre-approved marketing period* SSA.

If the servicer offers the *Hafa* DIL option separately from the *SSN SSA* or without a marketing period, the servicer must *communicate the terms of the DIL to the borrower in writing using the DIL Agreement form posted on www.HMPadmin.com or their own proprietary form DIL notice or agreement as is consistent with the Service's Hafa Policy, provided that all the information contained in Section 9.2 is included in such notice or agreement. While the DIL Agreement must be signed by the borrower, servicers may elect to use a unilateral form of DIL notice and not require the borrower's signature.* ~~provide the DIL Agreement form to the borrower.~~

9.2 DIL Terms

The following terms apply to a *Hafa* DIL *and must be included in a written communication from the servicer to the borrower detailing the terms of a DIL, whether the servicer uses the SSN, DIL Agreement or other written DIL notice or agreement:*

- The borrower must be able to convey clear, marketable title to the servicer or investor. The requirements for extinguishment of subordinate liens set forth in Section 6.2.4.2 apply to DIL transactions. *Notice must be provided to the borrower that borrower is responsible for property maintenance and repair until closing of the DIL.*
- ~~The SSA or DIL Agreement~~ *written DIL communication* must specify the date by which the borrower, tenant or other non-borrower occupant, if applicable, must vacate the property, which in no event shall be less than 30 calendar days from the date of the termination date of the *SSN SSA* or the date of a separate *DIL Agreement or other DIL notice or agreement*, unless the borrower voluntarily agrees to an earlier date.
- An agreement that upon successful closing of the DIL transaction, a borrower, tenant or other non-borrower occupant who will be required to vacate the property as a result of the DIL will be entitled to a relocation assistance of \$3,000 subject to the requirements of Section 6.2.5.
- ~~The SSA or DIL Agreement~~ may provide an option for the borrower or tenant, if applicable, to continue to occupy the property on a rental basis (deed-for-lease) or provide an opportunity for the borrower to repurchase the property at some future time. Such transactions are not eligible for relocation assistance, but are eligible for servicer and investor incentives under *Hafa*, so long as all other program requirements are met. Servicers offering programs of this type must include program descriptions and conditions in their *Hafa* Policy.
- Conditional DIL agreements that allow a borrower to reinstate the original loan following some period of rental occupancy are not eligible for *Hafa* incentives unless and until the DIL is successfully closed and the borrower no longer has the option of reinstating or modifying the original first mortgage lien.

- *The written notice or agreement of DIL must include notice to the borrower that a short sale may have income tax consequences and/or may have a negative impact on the borrower's credit score and a recommendation that the borrower seek professional advice regarding these matters.*
- *The amount of the monthly mortgage payment, if any, that the borrower will be required to pay until closing of the DIL. Notice that upon successful closing of a short sale acceptable to the servicer, the servicer will record a mortgage lien release and the borrower will be released from all liability for repayment of the first mortgage debt.*
- *Notice that upon successful closing of the DIL, the servicer will record a mortgage lien release and the borrower will be released from all liability for repayment of the first mortgage debt.*
- *A statement that so long as the borrower performs in accordance with the requirements identified by the servicer, the servicer will not complete a foreclosure sale; however, the servicer may initiate or continue the foreclosure process as permitted by the mortgage documents.*
- *Terms under which the approval of a DIL can be terminated.*
- *A statement that completion of the DIL may be subject to mortgage insurer or guarantor approval.*

S. Section 10 of Chapter IV is amended as follows:

Servicers are encouraged to use the form SSN and DIL Agreement ~~RASS~~ Servicers are required to use the Hafa documents provided on www.HMPAdmin.com. While the use of such documents is optional, if servicers do not use such forms, servicers must use written communications substantially similar in content. All documents must reflect the actual date of issuance by the servicer and must be binding on the servicer.

At closing, servicers are required obtain from the borrower and purchaser a Hafa Short Sale Affidavit (Hafa Affidavit) in the form posted on www.HMPAdmin.com, ~~or forms that are substantially similar in content to the forms provided,~~ except that the servicer may amend the terms of the Hafa Affidavit SSA ~~or DIL Agreement~~ in accordance with investor requirements, applicable laws or local real estate practice and may customize the Hafa Affidavit forms with servicer specific logos. In the Hafa Affidavit the borrower and purchaser make certain representations regarding the arm's length nature of the transaction and occupancy and acknowledge certain limitations on future resale of the property. The Hafa Affidavit must be signed by the borrower and purchaser as a condition of closing the transaction. Furthermore, all borrowers on or prior to closing, must have provided the servicer with an executed Hardship Affidavit (including a copy of the Dodd-Frank Certification) or an executed RMA.

All Hafa documentation must be signed by an authorized representative of the servicer and reflect the actual date of signature by the servicer's representative.

Unless a borrower or co-borrower is deceased or a borrower and a co-borrower are divorced, all parties who signed the original loan documents or their duly authorized representatives must execute the *Hardship Affidavit and HAF A Affidavit*~~HAF A documents~~. If a borrower and a co-borrower are divorced and the property has been transferred to one spouse in the divorce decree, the spouse who no longer has an interest in the property is not required to execute *such documents*~~the HAF A documents~~. Servicers may evaluate requests on a case-by-case basis when the borrower is unable to sign due to circumstances such as mental incapacity or military deployment.

Any party to a document utilized in HAF A may, subject to applicable law and any investor guidelines, prepare, sign and send the document through electronic means provided: (a) appropriate technology is used to store an authentic record of the executed document and the technology otherwise ensures the security, confidentiality and privacy of the transaction, (b) the document is enforceable under applicable law, (c) the servicer obtains the borrower's consent to use electronic means to enter into the document, (d) the servicer ensures that the borrower is able to retain a copy of the document and provides a copy to the borrower that the borrower may download, store and print, and (e) the borrower, at any time, may elect, *to the extent applicable*, to enter into the document through paper means or to receive a paper copy of the document.

T. The first bullet in Section 11.1 of Chapter IV is amended as follows:

- Notification – when the *terms of the short sale or DIL are conveyed in writing to the borrower* ~~SSA or DIL Agreement is signed and executed~~, or updated following an extension of the marketing terms;

U. The first three sentences of Section 12.3 of Chapter IV are amended as follows:

The investor will be paid a maximum of ~~\$2,000~~ *\$5,000* for allowing a portion of the short sale proceeds to be distributed to or paid to subordinate mortgage lien holders. This reimbursement will be earned on a ~~two~~*one*-for-three matching basis for ~~the first \$6,000 amounts~~ paid from the gross sale proceeds to subordinate mortgage lien holder(s). For each three dollars an investor pays to secure release of a subordinate mortgage lien, the investor will be entitled to ~~two~~ *one* dollars of reimbursement up to the maximum reimbursement of ~~\$5,000~~ *\$2,000*.