

# Servicing Guide Announcement SVC-2012-01

January 11, 2012

## Introduction of Fannie Mae Unemployment Forbearance

### ***Servicing Guide, Part VII, Section 403: Forbearance***

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

With Unemployment Forbearance, the servicer reduces or suspends the borrower's monthly payments for a specified period for a borrower with a financial hardship due to unemployment. The servicer can approve an Unemployment Forbearance term of six months without obtaining Fannie Mae approval, provided that all the eligibility and term requirements described in this Announcement are met.

Unemployment forbearance remains in effect until one of the following occurs:

- the forbearance period expires,
- the borrower fails to meet the forbearance terms,
- the borrower no longer meets the eligibility requirements, or
- the servicer receives notification from the borrower that he or she is re-employed or is no longer seeking employment.

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 of no more than six additional months. The Unemployment Forbearance term, however, must not be extended beyond a term that would cause the delinquency to exceed 12 months of the borrower's contractual mortgage loan payment, including taxes and insurance if the servicer is collecting escrows for such expenses. Unemployment Forbearance extensions may be recommended on a case-by-case basis and must be submitted to Fannie Mae for review and a final decision. Additional eligibility and documentation requirements for extending the Unemployment Forbearance are provided in this Announcement.

Additionally, should an unemployed borrower who was previously on a forbearance plan that has since expired request forbearance, then the servicer must evaluate the borrower for an Unemployment Forbearance due to continued unemployment. The servicer must base the evaluation on the extending Unemployment Forbearance requirements described in this Announcement. Servicers are encouraged to review such borrowers proactively if the borrower is not engaged in another foreclosure prevention alternative solution.

If an eligible borrower is offered and declines an Unemployment Forbearance plan, such borrower is ineligible for another Fannie Mae forbearance. The borrower, however, must be evaluated for other foreclosure prevention alternatives.

If the borrower regains employment or is ineligible for an Unemployment Forbearance extension, the borrower must cure the delinquency through a full reinstatement, payoff, or a repayment plan. If the borrower is unable to do so, he or she must be considered for another foreclosure prevention alternative in accordance with the Fannie Mae Workout Hierarchy.

All servicers must implement Fannie Mae's Unemployment Forbearance for all conventional mortgage loans that are held in Fannie Mae's portfolio, those purchased for Fannie Mae's portfolio but subsequently securitized into MBS pools (known as Pooled from Portfolio or PFP mortgage loans), and those originally delivered as part of an MBS pool that have either a special or regular servicing option or a shared-risk MBS pool for which Fannie Mae or the servicer markets the acquired property.

Entering into an agreement with a borrower for Unemployment Forbearance (whether approved by Fannie Mae or the servicer) does not waive, delete, or mitigate the servicer's recourse obligations and the servicer is still bound by the terms of any credit enhancement arrangement relating to the loan during the forbearance period.

## Eligibility

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.

Servicers are not required to evaluate the borrower for imminent default using Freddie Mac's Imminent Default Indicator™. The servicer must determine the borrower's financial hardship by reviewing the income and asset information received from the borrower.

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%.

**NOTE:** *The monthly housing expense is defined immediately above.*

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](http://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 follow the Fannie Mae requirements as indicated in the Announcement SVC-2011-08R, *Delinquency Management and Default Prevention*, for sending an Evaluation Notice and communicating the evaluation decision to the borrower.

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.

On a case-by-case basis, the servicer may recommend an extension of the Unemployment Forbearance to Fannie Mae for no more than six months. To request Fannie Mae's approval to extend Unemployment Forbearance beyond six months, the servicer must submit its recommendation to Fannie Mae. (Guidance on submitting a case to Fannie Mae will be provided on eFannieMae.com.)

Unemployment Forbearance must not extend beyond a term that would cause the delinquency to exceed 12 months of the borrower's contractual monthly mortgage loan payment, including taxes and insurance if the servicer is collecting escrows for such expenses.

If the servicer confirms the borrower is still unemployed the servicer must verify that:

- The borrower's current monthly housing expense to income ratio (excluding unemployment benefits) is greater than 31%.
- The borrower's cash reserves do not exceed 12 months of the borrower's monthly housing expense.

If the borrower's monthly housing expense to income ratio is less than or equal to 31% or the borrower's cash reserves stated on the *Uniform Borrower Assistance Form* ([Form 710](#)) are greater than 12 months of the borrower's monthly housing expense, the borrower is not eligible for extended Unemployment Forbearance and the servicer must evaluate the borrower for other foreclosure prevention alternatives by following the Fannie Mae Workout Hierarchy. If however, the servicer determines extending the Unemployment Forbearance is still the best alternative for the borrower; the servicer must submit the case to Fannie Mae for review.

The servicer must follow the Fannie Mae requirements as indicated in the Announcement SVC-2011-08R, for sending an Evaluation Notice and communicating the evaluation decision to the borrower.

## **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.

## **Borrower Solicitation and Follow-Up**

The following borrower outreach requirements must be followed for borrowers in an Unemployment Forbearance plan:

- The servicer must contact the borrower and determine the status of unemployment between days 120 to 135 of the initial Unemployment Forbearance plan. The servicer must follow the same requirements described in Announcement SVC-2011-08R until Quality Right Party Contact is achieved.
- By day 125 or re-employment (whichever is earlier), the servicer must send a Borrower Solicitation Package to the borrower, unless the Borrower Response Package has already been submitted. The servicer must follow the same requirements as indicated in Announcement SVC-2011-08R (such as, the information required in the solicitation letter). If the servicer has previously received a Borrower Response Package, then the servicer may verbally update the Borrower Response Package when contact is made with the borrower.
- The servicer must follow up on the outstanding Borrower Response Package by following the same requirements described in Announcement SVC-2011-08R.

If a borrower is granted an Unemployment Forbearance extension, the servicer must:

- Contact the borrower monthly during the extended Unemployment Forbearance period to assess the borrower's continued eligibility for Unemployment Forbearance.

- No later than 60 days prior to the end of the extended Unemployment Forbearance period, or upon notification of re-employment, the servicer must request updated documentation from the borrower, in order to evaluate the borrower for another foreclosure prevention alternative. Verbal updates are not permitted.

The timeline for reviewing the Borrower Response Package, sending appropriate notices, and other requirements, such as foreclosure proceedings, are as indicated in Announcement SVC-2011-08R.

## **Mortgage Insurance**

As noted in the *Servicing Guide*, Part II, Section 102: Conventional Mortgage Insurance, the servicer must keep in effect any borrower-purchased mortgage insurance that existed when Fannie Mae acquired the mortgage loan, unless the conditions Fannie Mae imposes for replacing or terminating the coverage are met. In addition, the servicer must keep in effect any lender-purchased mortgage insurance that existed when Fannie Mae acquired the mortgage loan until the mortgage loan is paid in full.

The servicer may be required to provide notice to or obtain the consent of the mortgage insurer for Unemployment Forbearance if Unemployment Forbearance will preclude adherence to the timeframes required for various actions (for example, the initiation of foreclosure proceedings) under the mortgage insurance policy. Servicers must ensure Fannie Mae's claim under the mortgage insurance contract is in no way jeopardized 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 Requirements**

### ***Reporting to Fannie Mae***

During the Unemployment Forbearance, the servicer must report Delinquency Status Code 09 – Forbearance and Delinquency Reason Code 16 - Unemployment. If there are multiple reasons for the borrower's default, including unemployment, the servicer must utilize Delinquency Reason Code 16 – Unemployment, in lieu of any other default reason code, if the borrower is approved for Unemployment Forbearance.

The data submitted must be accurate, complete, on a timely basis, and agree with the servicer's records.

### ***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.



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Servicers should contact their Servicing Consultant, Portfolio Manager, or Fannie Mae's National Servicing Organization's Servicing Solutions Center at 1-888-FANNIE5 (888-326-6435) with any questions regarding this Announcement.

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