



TOP 10 HAMP CHALLENGES

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Multiple Programs



- Making Home Affordable (MHA)
 - » Home Affordable Refinance Program (HARP)
 - » Home Affordable Modification Program (HAMP)
 - » Second Lien Modification Program (2MP)
 - » Home Affordable Foreclosure Alternatives (HAFA)
- GSE HAMP
- FHA-HAMP and Treasury FHA-HAMP
- VA-HAMP
- FHA Refinance
- Hope for Homeowners
- Unemployment assistance/principal reductions
- Hardest Hit Fund programs
- Proprietary programs for non-owner-occupied, < 31% DTI, second liens, jumbo loans, short sales/deeds in lieu of foreclosure

- Supplemental Directives 09-01 – 09-10 and 10-01 – 10-03
- FAQ Revisions
- Conversion Campaign FAQs
- Updates/Waivers
- Press releases with details to follow

- Moral hazard
- Consumer/investor interests (first and second liens)
- Congressional hearings and inquiries
- Consumer group concerns
- Interests of various government entities:
 - » Treasury
 - » OCC
 - » SIGTARP
 - » GAO
 - » FTC
 - » DOJ
 - » FHA
 - » State AGs and legislators

Operational Challenges



- Counsel needs to ensure business clients understand and comply with Directives while resolving operational complexities such as:
 - » Quick implementation timeframes on program changes and competing priorities from various programs and changes
 - » Systems capabilities
 - » Conversion to permanent modification
 - » Change from stated income to verified income
 - » Changes to verification standards
 - » Application of trial payments
 - » Creation of escrow account prior to trial period
 - » Monthly statement changes
 - » Servicing release of loans in HAMP process
 - » Foreclosure holds
 - » Credit reporting changes
 - » Administration of incentive payments to borrower, investor and servicer

Regulatory Impacts



- Regulation B and Federal Reserve guidance on adverse action notices
 - » Applies only to current/imminent default borrowers but is encouraged for delinquent borrowers
 - » Need to offer other foreclosure prevention alternatives as well
 - » Timing requirements by Treasury and Reg B not necessarily consistent
- FDCPA impact on outreach
 - » Loss mitigation vs. debt collection
 - » Miranda warning
 - » Servicer vs. third party vendor
- Fair lending
 - » Consistent treatment of customers
 - » Government Monitoring Information

Compliance Concerns



- MHA-C enforcement and audits
- Quarterly reviews and Annual Certification
 - » Compliance with all Treasury Directives
 - » Compliance with all applicable federal, state and local laws, rules, regulations and ordinances
- Servicer Program Readiness Assessment forms
- Confidentiality???
- Potential penalties:
 - » Federal criminal penalties involving fraud, conflict of interest, bribery or gratuity under USC Title 18
 - » Civil False Claims Act under 31 USC sections 3729-3733
 - » Loss of incentives due to materially insufficient performance
 - » Requirement of additional quality control reviews
 - » Termination from the program

Reporting Challenges



- Ensure data is correct
- Comply with complex template requirements and instructions
- Changes to templates
- Addition of HAFA and FHA-HAMP data
- Determining “Known Exclusions”
 - » Vacancy
 - » Owner-occupancy
 - » Other active workout
 - » Ensure exclusions are mutually exclusive so no double-counting
- Treasury emphasis now on reporting cancellations

Documentation



- Create trial plans and modification agreements for 2MP, FHA-HAMP, VA-HAMP and other programs
- Ensure customer letters and agreements conform to program and regulatory requirements
- Ensure letters and agreements describe complex program provisions in clear and understandable language

Modification Fraud



- Potential fraud in underwriting
 - » False SSNs
 - » Fraudulent pay stubs
 - » Misrepresentation of occupancy
 - » Forging signature of spouse/former spouse
- Adverse action letters and reporting – what reason/code should be used?
- Discovery of fraud post-modification
 - » Rescind modification?
 - » False Claims Act?
- Internal control program to detect fraud
- Third party for-profit representatives – “foreclosure rescue firms”

- Keep the customer informed
 - » Ensure clear, accurate and consistent training and scripting for customer-facing groups
 - » Set customer expectations for timing of process
 - » Refer customers to websites for program information
 - Proprietary websites and www.makinghomeaffordable.com
- Ensure effective processes for receipt of customer documentation
- Create effective escalation processes for complaints



QUESTIONS?