

Supplemental Directive 10-13

October 1, 2010

Making Home Affordable Program – Program Participation Cap Adjustments Pursuant to the Servicer Cap Model

In February 2009, the Obama Administration introduced the Making Home Affordable (MHA) Program, a plan to stabilize the housing market and help struggling homeowners avoid foreclosure. In March 2009, the Treasury Department (Treasury) issued uniform guidance for loan modifications by participants in MHA across the mortgage industry and subsequently updated and expanded that guidance. To participate in MHA for mortgage loans not owned or guaranteed by Fannie Mae or Freddie Mac (Non-GSE Mortgages), a servicer must register and execute a Servicer Participation Agreement (SPA). Pursuant to the SPA, the aggregate Purchase Price available to pay servicer, borrower and investor compensation in connection with Services performed by a participating servicer pursuant to the SPA is limited to the Program Participation Cap established by Treasury.

This Supplemental Directive provides guidance relating to the establishment of a model (Servicer Cap Model) which will adjust participating servicers' Program Participation Caps effective as of October 1, 2010.

Previously, a servicer's Program Participation Cap was set at a fixed dollar amount pursuant to each servicer's SPA and pursuant to Section 1.5 of Chapter I of the *Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages (Handbook)*. Treasury established each servicer's initial Program Participation Cap using an allocation methodology by estimating the number of Services expected to be performed by each servicer during the term of the SPA. The Program Participation Cap could be, and was, adjusted periodically by Treasury based on Treasury's full book analysis of such servicer's loans.

Effective as of October 1, 2010, each servicer's Program Participation Cap will be determined by Treasury pursuant to the Servicer Cap Model described below. At the end of each calendar quarter, commencing in December 2010, or at such other frequency as Treasury establishes, in its sole discretion, Treasury will apply the Servicer Cap Model to generate a new Program Participation Cap for each servicer. The Servicer Cap Model aims to reallocate a percentage of Program Participation Cap from servicers that have a large amount of unallocated Program Participation Cap to servicers that have a small amount of unallocated Program Participation Cap. The reallocation will seek to maintain a minimum percentage in available cap amount (initially, 20%, but subject to readjustment under the Servicer Cap Model) for each servicer. This rebalancing is intended to ensure that each servicer has a Program Participation Cap that is large enough to ensure sufficient headroom to continue to perform new Services under the SPA.

Under the Servicer Cap Model, the sum of the Program Participation Caps in effect as of October 1, 2010 for all servicers participating in the program will not change. The obligation of Treasury

to make payments for Services in accordance with the terms of each servicer's SPA is not affected.

CONFORMING CHANGES TO EXISTING HANDBOOK CHAPTERS

Effective October 1, 2010, Section 1.5 of Chapter I of the *Handbook* is deleted and replaced in its entirety with the following text:

1.5 Program Participation Caps

The amount of funds available to pay servicer, borrower and investor compensation in connection with each servicer's Services are capped pursuant to each servicer's SPA and pursuant to this Handbook (Program Participation Cap). Treasury established each servicer's Program Participation Cap as of September 30, 2010 using an allocation methodology by estimating the number of Services expected to be performed by each servicer during the term of the SPA. Notwithstanding anything to the contrary in the SPA, the Program Participation Cap can be adjusted (1) upwards or downwards, pursuant to a model (Servicer Cap Model) to be applied to all servicers currently participating in MHA or (2) downwards, based on Treasury's full book analysis of the servicer's loans.

The Servicer Cap Model is intended to adjust a servicer's Program Participation Cap pursuant to a non-discretionary model, which will, in general, re-allocate Program Participation Cap amounts among servicers depending on their effectiveness at performing Services. The aggregate amount of all Program Participation Caps will not increase at any time. The Servicer Cap Model is described below. The Servicer Cap Model will initially be calculated (Cap Determination Date) on a quarterly basis; however, Treasury may increase the frequency of calculation at any time. Upon each calculation of the Servicer Cap Model by Treasury, each participating servicer will promptly be notified of its new Program Participation Cap.

The funds remaining available for Services under a servicer's Program Participation Cap are reduced by the maximum amount of projected compensation payments potentially payable with respect to each Service. In the event the compensation actually paid with respect to a Service is less than the maximum amount of compensation payments potentially payable, the funds remaining available for a servicer's Services under the SPA are increased by the difference between such amounts.

In addition, Treasury may, from time to time and in its sole discretion, revise a servicer's Program Participation Cap downwards. The Program Administrator provides written notification to a servicer of all changes made to the servicer's Program Participation Cap. Once a servicer's Program Participation Cap is reached for the applicable period, a servicer must not enter into any agreements with borrowers intended to result in new Services, and no payments will be made with respect to any new Services.

The “Servicer Cap Model” shall be:

For each servicer participating in MHA and for each Cap Determination Date, the Program Participation Cap shall be equal to:

- (a) If the Fully Funded Cap is equal to 1, then the Program Participation Cap for such servicer shall be equal to the Hard Cap Amount; or
- (b) If (i) the Fully Funded Cap is equal to zero and (ii) the Current Cap Required for Available Headroom is greater than zero, then the Program Participation Cap for such servicer shall be equal to the Current Cap Required for Available Headroom; or
- (c) If (i) the Fully Funded Cap is equal to zero, (ii) the Current Cap Required for Available Headroom is equal to zero, (iii) the Hard Cap Amount is greater than \$100,000 and (iv) the Required Cap Reduction Amount is equal to zero, then the Program Participation Cap for such servicer shall be equal to the Hard Cap Amount; or
- (d) If (i) the Fully Funded Cap is equal to zero, (ii) the Current Cap Required for Available Headroom is equal to zero, (iii) the Hard Cap Amount is greater than \$100,000 and (iv) the Required Cap Reduction Amount is greater than zero, then the Program Participation Cap for such servicer shall be equal to the *greater* of (A) \$100,000 or (B) the Hard Cap Amount for such servicer *minus* the Required Cap Reduction Amount.

Defined Terms: The following are the defined terms for the Servicer Cap Model. Any amount or percentage referenced therein shall be as of the applicable Cap Determination Date.

“Aggregate Adjusted Hard Cap Amount Utilized.” For any Cap Determination Date, the aggregate of all Adjusted Hard Cap Amount Utilized of all servicers participating in MHA.

“Aggregate Current Cap Utilized.” The aggregate of all Current Cap Utilized of all servicers participating in MHA on such Cap Determination Date.

“Aggregate Current Unutilized Cap”. For any Cap Determination Date, the aggregate of all Current Unutilized Cap amounts of all servicers participating in MHA on such Cap Determination Date.

“Aggregate Hard Cap Amount.” For any Cap Determination Date, the aggregate of all Hard Cap Amounts of all servicers participating in MHA.

“Adjusted Hard Cap Amount Utilized.” For each servicer and for any Cap Determination Date, the Current Cap Utilized, *provided*, that such amount shall not be less than \$100,000.

“Aggregate Max Current Cap.” For any Cap Determination Date, the aggregate of all Max Current Cap Required for Available Headroom amounts of all servicers participating in MHA.

“Aggregate Percentage of Adjusted Hard Cap Amount Utilized”. For any Cap Determination Date, the Aggregate Adjusted Hard Cap Amount Utilized expressed as a percentage of the Aggregate Hard Cap Amount .

“Current Cap Required for Available Headroom”. For each servicer and for any Cap Determination Date:

- (a) if the Percentage of Hard Cap Amount Utilized is less than or equal to the Target Utilization Percentage of the Adjusted Hard Cap Amount Utilized, then the Current Cap Required for Available Headroom shall be equal to zero; or
- (b) if the Percentage of Hard Cap Amount Utilized is greater than the Target Utilization Percentage of the Adjusted Hard Cap Amount Utilized, the Current Cap Required for Available Headroom shall be equal to such servicer’s Current Cap Utilized expressed as a percentage of the applicable Target Utilization Percentage.

“Current Cap Utilized.” For each servicer and for any Cap Determination Date, the amount of the Hard Cap Amount for such servicer utilized, based on the Treasury system of record data on the number of modifications and other applicable MHA transactions (e.g., short sales and deeds-in-lieu) initiated on behalf of such servicer.

“Current Unutilized Cap”. For each servicer and for any Cap Determination Date:

- (a) If such servicer’s Current Cap Required for Available Headroom is greater than zero, then the Current Unutilized Cap for such servicer shall be equal to zero; or
- (b) If (i) such servicer’s Current Cap Required for Available Headroom is equal to zero *and* the Hard Cap Amount is equal to \$100,000, then the Current Unutilized Cap for such servicer shall be equal to zero; or
- (c) If (i) such servicer’s Current Cap Required for Available Headroom is equal to zero *and* the Hard Cap Amount is greater than \$100,000, then the Current Unutilized Cap for such servicer shall be equal to the product of (i) such servicer’s Hard Cap Amount *minus* (ii) the *greater* of (A) \$100,000 or (B) such servicer’s Current Cap Utilized expressed as a percentage of the applicable Target Utilization Percentage.

“Excess Cap Allocation Amount”. For any Cap Determination Date, shall be equal to the Aggregate Max Current Cap *minus* the Aggregate Hard Cap Amount.

“Fully Funded Cap”. For any Cap Determination Date, if Treasury has locked a servicer’s Program Participation Cap at a fixed amount, and notified such servicer in writing that such Program Participation Cap is “fully funded”, then such servicer’s Fully Funded Cap shall have a value of 1¹. If Treasury has *not* locked the applicable servicer’s Program Participation Cap in the preceding manner, then such servicer’s Fully Funded Cap shall have a value of zero.

“Hard Cap Amount.” For each servicer, the Hard Cap Amount for any Cap Determination Date (for purposes of applying the Servicer Cap Model as of that Cap Determination Date) is

¹ Such event might occur because, for example, a servicer has no further loans eligible to be modified. Such determination is in Treasury’s sole discretion.

the amount that was notified to each servicer in writing by Fannie Mae, acting as Treasury's program administrator, for the immediately preceding Cap Determination Date, pursuant to a periodic determination of Hard Cap Amounts of all participating servicers. Once the Servicer Cap Model is applied to all servicers on any Cap Determination Date, the Hard Cap Amount shall be the amount derived from the Servicer Cap Model and provided to each servicer in writing by Fannie Mae, acting as Treasury's program administrator.

"Max Current Cap Required for Available Headroom". For each servicer and for any Cap Determination Date, shall be equal to the greater of (i) such servicer's Hard Cap Amount or (ii) such servicer's Current Cap Required for Available Headroom.

"Percentage of Hard Cap Amount Utilized". For each servicer and for any Cap Determination Date, such servicer's Adjusted Hard Cap Amount Utilized expressed as a percentage of such servicer's Hard Cap Amount.

"Remaining Funds Percentage". For each servicer and for any Cap Determination Date:

- (a) If the Current Unutilized Cap of such servicer is equal to zero, then the Remaining Funds Percentage for such servicer shall be equal to zero; or
- (b) If the Current Unutilized Cap of such servicer is greater than zero, then the Remaining Funds Percentage for such servicer shall be equal to such servicer's Current Unutilized Cap expressed as a percentage of the Aggregate Current Unutilized Cap.

"Required Cap Reduction Amount". For each servicer and for any Cap Determination Date:

- (a) If the Current Unutilized Cap of such servicer is equal to zero, then the Required Cap Reduction Amount for such servicer shall be equal to zero; or
- (b) If the Current Unutilized Cap of such servicer is greater than zero, then the Required Cap Reduction Amount for such servicer shall be equal to the *lesser* of (i) the product of the Remaining Funds Percentage and the Excess Cap Allocation Amount or (ii) the product of the Remaining Funds Percentage and the Aggregate Current Unutilized Cap.

"Target Utilization Percentage". For any Cap Determination Date, the Target Utilization Percentage shall be:

- (a) if the Aggregate Percentage of Adjusted Hard Cap Amount Utilized is less than or equal to 80%, then the Target Utilization Percentage shall be 80%; or
- (b) if the Aggregate Percentage of Adjusted Hard Cap Amount Utilized is greater than 80% but less than or equal to 85%, then the Target Utilization Percentage shall be 85%; or
- (c) if the Aggregate Percentage of Adjusted Hard Cap Amount Utilized is greater than 85% but less than or equal to 90%, then the Target Utilization Percentage shall be 90%; or

- (d) if the Aggregate Percentage of Adjusted Hard Cap Amount Utilized is greater than 90% but less than or equal to 95%, then the Target Utilization Percentage shall be 95%; or
- (e) if the Aggregate Percentage of Adjusted Hard Cap Amount Utilized is greater than 95%, then the Target Utilization Percentage shall be 100%.

On October 4, 2010, the Target Utilization Percentage shall be 80%.