



HAFA Short Sales

**U.S. Treasury, Fannie Mae, and
Freddie Mac Programs**

**Instructor &
Student Manual**



A Program by the Real Estate Buyer's Agent Council of the
National Association of REALTORS®

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National Association of REALTORS®
430 North Michigan Avenue
Chicago, Illinois 60611
USA

1-800-648-6224
1-312-329-8632 (fax)
REBAC@realtors.org
www.CourseCalendar.com

Acknowledgments

The Real Estate Buyer's Agent Council (REBAC) expresses gratitude and appreciation to the following individuals for their subject matter and industry expertise, input and feedback, and commitment to providing the best education for today's real estate professionals:

- Jim Hogan, DREI, ABR®, GREEN, SFR
- Curtis Hall, GRI, ABR®, CRS, SRES®, GREEN
- Esther Hogan, Hogan School of Real Estate, Inc.
- Jeff Lischer, Managing Director, National Association of REALTORS®
- Scott Thompson, Mortgage Resolution Services

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MODULE 1. HARP, HAMP, AND HAFAs OVERVIEW

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Making Home Affordable—HARP, HAMP, and HAFAs

In 2009, the U.S. government introduced Making Home Affordable in an attempt to alleviate foreclosures and allow people to retain their homes. Initially, there were two programs: (1) the Home Affordable Refinance Program (HARP) and (2) the Home Affordable Modification Program (HAMP). However, neither of these programs was designed specifically for short sale transactions.

Throughout 2009, the number of foreclosures and short sales continued to increase across the country, but there was no uniformity or standardization of short sale procedures among lenders. At the urging of the National Association of REALTORS® (NAR) and recognizing the need to assist homeowners who had to sell their homes, the U.S. Treasury announced the Home Affordable Foreclosure Alternatives Program (HAFAs) in May 2009 and released detailed guidelines and forms in November 2009.

The U.S. Treasury HAFAs program took effect in April 2010 and includes loans serviced by loan servicing companies that had signed on to the HAMP program. It only included non-Government Service Entity (GSE) loans. That meant that it did not include loans held or guaranteed by Fannie Mae or Freddie Mac. Fannie Mae and Freddie Mac are known as Government Sponsored Enterprises (GSEs) and are estimated to guarantee or hold approximately half of the residential loans in the U.S. On June 1, 2010, Fannie and Freddie announced that they would participate in HAFAs with an effective date of August 1, 2010. The Fannie Mae and Freddie Mac programs are based on the Treasury's HAFAs program, but have some significant differences.

Exam Question 3

Under HAFAs, short sales can be pre-approved on the first mortgage only, documentation is standardized, and specific time lines are set for approval, marketing, acceptance, and closing. Sellers receive \$3,000 in relocation expenses at close of escrow if the short sale is fully in compliance with HAFAs. The home must be listed for sale so a licensee's involvement is crucial.

Module 1. HARP, HAMP & HAFA Overview

This course looks at all three HAFA programs—the programs from the U.S. Treasury, Fannie Mae, and Freddie Mac. Since the Treasury's program is the basis for all three, the course will tackle that program first, in detail, laying the groundwork for discussion and comparison of the Fannie and Freddie programs. The differences in the Fannie Mae and Freddie Mac programs are mentioned throughout the course and also separately towards the end of the course.

It is estimated that the servicers that are involved in these programs service 89% of the residential loans in the U.S. Since HAFA has strict eligibility requirements—for example, the home must be owner occupied—so not all loans or borrowers will qualify. But many will and it is incumbent upon "state of the art" real estate professionals to learn about these programs to assist their short sale sellers in reaching their goals.

HAFA Advantages for Sellers

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- Sellers receive \$3,000 relocation assistance.
- The foreclosure sale must be suspended while eligibility is determined, the property is marketed, or closing is pending.
- Sellers are released of all liability on 1st and subordinate liens.
- Sellers cannot be required to sign a note or pay any additional amounts to satisfy liens.
- The short sale is Pre-Approved. This takes more time on the front end of the transaction, but much less time after a purchase contract is accepted by the seller.
- Purchase agreements are approved or denied within 10 business days. If the purchase agreement meets the pre-approved terms, it must be approved.
- If a short sale is not successful, a deed-in-lieu of foreclosure may be possible with the seller receiving \$3,000 relocation assistance or being able to lease the home back at below market rent (Fannie Mae loans only: Fannie Mae Deed-for Lease).

Slide 1-5

Instructor Note:
Licensees must take great care when noting in the MLS that a short sale is "pre-approved". Whether the remarks are in the public section, or are shared with the public, conclusions may be drawn that are not entirely accurate.

HAFAs Advantages for Real Estate Professionals

- Forms are standardized.
- Real estate licensees cannot be required to contribute money to effect the sale.
- No last-minute commission negotiations.
- No long waits for approval or denial.
- Listing remarks can indicate pre-approval. This may make the property more attractive to buyers.

HAFAs Disadvantages

Slide 1-6

- Seller may be required to make monthly payments, described in the Treasury program as "Partial Monthly Payments", in an amount determined by servicer and outlined in the SSA.
- Process is new to both servicers and real estate licensees.

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Why REALTORS® Need to Know About HAFAs

The REALTOR® Code of Ethics contains numerous Articles and Standards of Practice that relate to the importance of learning about HAFAs. A few quotes from the Code of Ethics demonstrate this:

- "...REALTORS® continuously strive to become and remain informed on issues affecting real estate..." (Preamble)
- "...REALTORS® pledge themselves to protect and promote the interests of their client." (Article 1)
- "REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to...the transaction." (Article 2)
- "The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage..." (Article 11)

Module 1. HARP, HAMP & HAFA Overview

- "REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client." (Article 11)

"The obligations of the Code of Ethics...shall be interpreted and applied in accordance with the standards of competence and practice which clients and the public reasonably require to protect their rights and interests considering the complexity of the transaction..." (Standard of Practice 11-2)

Since 2007, short sales have been an unfortunate but widespread trend in many real estate marketplaces. If today's REALTOR® is listing a property for which a short sale is indicated and does not know about HAFA or, does not present the seller with the opportunities HAFA offers, could it be argued that the REALTOR® was negligent in failing to perform to the newly defined standards of care? Could it be argued that the REALTOR® has damaged and/or placed the seller in harm's way? Might the REALTOR® be held accountable or liable for damages as a result of his or her actions or inaction?

With the U.S. Treasury, Fannie Mae, and Freddie Mac implementation of the HAFA Program, a new standard of care may have been established for today's real estate practitioner.

An abundance of information on short sales is available at www.Realtor.org/shortsales.

Terminology, Definitions, and Alphabet Soup

Here is a list of many of the terms and acronyms relating to this course.

- **Borrower:** the homeowner/seller who makes payments on the mortgage loan.
- **Servicer:** the company to which the borrower makes payments. The servicer is the entity that processes all paperwork and approves or denies the HAFA short sale or DIL, consistent with the rules of the HAFA program and their written policy as filed with the US Treasury.
- **Investor:** the owner of the mortgage loan. In some cases loans are serviced by the investor, but in most cases the investor is a third party

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Exam Question 28

HAFAs Short Sales: U.S. Treasury, Fannie Mae, and Freddie Mac Programs

to whom the servicer forwards payment. Under HAFAs, the servicer is required to establish written guidelines, with the investor's consent, to approve or deny short sales.

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- **GSE:** Government Sponsored Enterprise – Fannie Mae or Freddie Mac.
- **Non-GSE loan:** a loan not owned or guaranteed by Fannie Mae or Freddie Mac. The US Treasury's HAFAs program applies to Non-GSE loans and some Fannie Mae loans.
- **SSA: Short Sale Agreement.** The agreement outlines the roles and responsibilities of the servicer and borrower and provides key marketing terms, including list price or acceptable sales proceeds and the approvable closing costs. If the borrower submits an executed sales contract to the servicer consistent with all the conditions of the SSA, the servicer should approve the short sale.
- **RASS: Request for Approval of Short Sale.** The document that the borrower submits to the servicer to request approval of a short sale contract based on a previously issued SSA. The borrower must attach a copy of the executed sales contract and all addenda.

Slide 1-10

- **Alt. RASS: Alternative Request for Approval of Short Sale.** The document the borrower submits to the servicer to obtain approval of a short sale contract entered into between a buyer and seller prior to an SSA having been issued.
- **DIL: Deed-in-Lieu of Foreclosure.** The process of deeding the home to the lender instead of going through a foreclosure.
- **MANP: Minimum Acceptable Net Proceeds.** The minimum amount the servicer will accept in a short sale.

Slide 1-11

- **MI: Mortgage Insurer.** The company that issued mortgage insurance on the borrower's loan. Note: There can be mortgage insurance on the first mortgage with the monthly MI premium paid by the borrower on the second. On the second, the loss protection coverage premium is normally a one-time fee paid by the lender.

Supplemental Directives, Announcements, Bulletins, and Servicing Guides

Throughout this course reference is made to Supplemental Directives, Fannie Mae Announcements, Freddie Mac Bulletins, and Servicing Guides.

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The U.S. Treasury issues **Supplemental Directives (SDs)** to inform and instruct loan servicers how to implement and proceed with the Making Home Affordable programs. The SDs affect non-GSE and some Fannie Mae loans. Fannie Mae and Freddie Mac both have "**Servicing Guides**" that accomplish the same goals. Fannie Mae informs servicers of new information through "**Announcements**" and Freddie Mac informs their servicers of new information through "**Bulletins.**"

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These documents are available at the following Web sites:

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- For the U.S. Treasury HAFA program, www.HMPAdmin.com is the administrative Web site for servicers. The Supplemental Directives, including the Treasury forms, are found there.

- For the Fannie Mae HAFA program, www.efanniemae.com is Fannie Mae's business-to-business Web site for their customers and partners in the mortgage industry.

Slide 1-15

- HAFA forms and other information can be found at <https://www.efanniemae.com/sf/servicing/hafa/index.jsp>.
- Servicing guides can be found at: <https://www.efanniemae.com/sf/guides/ssg/?from=hp#ssg>

- For the Freddie Mac HAFA program, www.FreddieMac.com is Freddie Mac's site.

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- Freddie Mac's HAFA forms can be found at: <http://www.freddiemac.com/singlefamily/service/hafa.html>.
- The servicing guides are at: www.Freddiemac.com/sell/guide/ Click on the "AllRegs" link.

The Making Home Affordable Web Site

www.MakingHomeAffordable.gov is the central Web site for information about the programs discussed in this course. We suggest that licensees become very familiar with it and check back often for new information.

Slide 1-17 thru 1-21

Click on "Loan Look Up" and with a loan number you can determine if a loan is owned by Fannie or Freddie. The seller must do this personally or authorize you to do it for him or her.

Exam Question 11

Click on "Eligibility" and you can learn about eligibility requirements for HARP, HAMP, and HAFA.

Click on "Resources" and you can navigate to a complete list of servicers who are participating in these programs.

HARP—Home Affordable Refinance Program

This program is only mentioned here to avoid alphabet soup confusion. HARP is a refinance program available for homes with Fannie and Freddie loans. It allows homeowners to refinance their loan to obtain a more affordable payment and terms.

Slide 1-22 thru 1-26

The HARP eligibility criteria are:

- Owner occupied, 1–4 family
- Fannie or Freddie loan
- Payments current
- LTV 80%–125% of value

HARP has had limited success, especially in the areas of the country where values have declined substantially since their peaks in 2006. However, it is one of the options that is available to homeowners and should be discussed with sellers who want to stay in their home.

HAMP—Home Affordable Modification Program

Slide 1-27

On April 6, 2009, the U.S. Treasury issued Supplemental Directive 09-01 (SD 09-01) that announced the Home Affordable Modification Program. At that time it was referred to as HMP but has since become more commonly known as HAMP.

The basic eligibility criteria for HAMP are:

Slide 1-28

- Principal residence (exception for vacancies up to 90 days if borrower documents he or she was required to move at least 100 miles for employment and has not purchased a home in that period.)
- Current unpaid principal balance must be no greater than:
 - 1 Unit: \$729, 750
 - 2 Units: \$934,200
 - 3 Units: \$1,129,250
 - 4 Units: \$1,403,400
- 1st position loans (first mortgage must be “short”)
- Originated on or before January 1, 2009
- Monthly payment on the first mortgage exceeds 31% of gross income.
- Borrower has a financial hardship.
- Borrower is delinquent or default is reasonably foreseeable.

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Exam Question 21

These criteria are important to remember as they are the same eligibility criteria for HAFA.

This course does not discuss HAMP modifications in any detail.

Monthly reports as to the progress being made under HAMP can be found at <http://financialstability.gov/latest/reportsanddocs.html>. HUD and Treasury issue a Monthly Housing Scorecard at www.hud.gov/scorecard.

Slide 1-30

HAFA Short Sales: U.S. Treasury, Fannie Mae, and Freddie Mac Programs

Like HARP, HAMP has had limited success, especially in the first year. As servicers have become more involved in HAMP, more modifications are being made. Since loan modifications are one of the options available to homeowners and must be considered before a borrower is eligible for HAFA, licensees should discuss this option with sellers who want to stay in their home. As we shall see, under the HAFA program a HAMP loan modification or a HAFA short sale may be offered to the homeowner once the owner is determined to be eligible.

MODULE 2. U.S. TREASURY'S HAFA PROGRAM

Slide 2-1

On November 30, 2009 the Treasury issued Supplemental Directive 09-09 (SD 09-09) which announced the HAFA program guidelines. The effective beginning deadline date for HAFA was April 5, 2010. On March 26, 2010 some changes in SD 09-09 were announced in a revised directive, Supplemental Directive 09-09R (SD 09-09R). This directive is the defining document for the Treasury's HAFA program and is included with this course. The licensee who wants to fully understand this program should study SD 09-09R. Any future revisions, updates or additional information can be found at www.HMPAdmin.com which is the website for servicers involved in the HAMP and HAFA programs.

Slide 2-2

To quote from SD 09-09R: "HAFA is part of HAMP and provides financial incentives to servicers and borrowers who utilize a short sale or a deed-in-lieu to avoid a foreclosure on an eligible loan under HAMP. Both of these foreclosure alternatives reduce the need for potentially lengthy and expensive foreclosure proceedings. The options help preserve the condition and value of the property by minimizing the time a property is vacant and subject to vandalism and deterioration. In addition, these options generally provide a substantially better outcome than a foreclosure sale for borrowers, investors and communities."

HAFA offers two alternatives to homeowners who want to avoid foreclosure. They are:

- Short sale
- Deed in lieu of foreclosure (DIL)

Slide 2-3

This course will focus on short sales but there will be some limited discussion of deeds-in-lieu of foreclosure. However, licensees must be aware of the DIL alternative as one of the options available to the homeowner.

SD 09-09R states:

*"In a **short sale**, the servicer allows the borrower to list and sell the mortgaged property with the understanding that the net proceeds from the sale may be less than the total amount due on the mortgage. The short sale must be an arm's length transaction with the net sale proceeds (after deductions for reasonable and customary selling costs) being applied to a discounted ("short") mortgage payoff acceptable to the servicer. The servicer accepts the short payoff in full satisfaction of the total amount due on the first mortgage."*

*"In a **deed-in-lieu of foreclosure (DIL)**, the borrower voluntarily transfers ownership of the mortgaged property to the servicer in full satisfaction of the total amount due on the first mortgage. The servicer's willingness to approve and accept a DIL is contingent upon the borrower's ability to provide marketable title, free and clear of mortgages, liens and encumbrances. **Generally, servicers require the borrower to make a good faith effort to sell the property through a short sale before agreeing to accept the DIL.** However, under circumstances acceptable to the investor, the servicer may accept a DIL without the borrower first attempting to sell the property. With either the HAFAs short sale or DIL, the servicer may not require a cash contribution or promissory note from the borrower and must forfeit the ability to pursue a deficiency judgment against the borrower."*

HAFAs Eligibility Criteria

Slide 2-4

The eligibility criteria for HAFAs are the same as those for HAMP:

- Principal residence (exception for vacancies up to 90 days if borrower documents he or she was required to move at least 100 miles for employment and has not purchased a home in that period.
- Current unpaid principal balance must be no greater than:
 - 1 Unit: \$729,750
 - 2 Units: \$934,200
 - 3 Units: \$1,129,250
 - 4 Units: \$1,403,400
- 1st position loans (first mortgage must be "short")

Exam Question 7

- Originated on or before January 1, 2009
- Monthly payment on the first mortgage exceeds 31% of gross income
- Borrower has a financial hardship
- Borrower is delinquent or default is reasonably foreseeable

Licensees must know these criteria to assist sellers to determine their basic eligibility. If it is determined that a seller does not meet these criteria it does not mean the seller can't short sell the property. It only means that a HAFA short sale will not work. To learn more about short sales in general, licensees should complete the Short Sales and Foreclosures Course from REBAC, which is qualifying education for NAR's Short Sales and Foreclosure Resource (SFR) certification. Note: Agents should take great care to avoid providing a homeowner with a definitive conclusion as to their HAFA eligibility. Ultimately, the servicer will determine whether or not the homeowner is eligible.

HAFA Features

Slide 2-5

Until HAFA there were no standard procedures for short sales. Every servicer had, and still has, its own procedure for processing, approving or denying non-HAFA short sales. In most instances servicers did not allow the short sale package to be submitted until after a buyer and seller entered into a contract. HAFA changes that.

Under HAFA:

- Short sale terms are pre-approved.
- Specific time lines exist for the servicer to:
 - Determine a borrower's eligibility
 - Approve or deny a short sale purchase agreement
- Listing commissions are protected once the SSA has been executed. When issuing the SSA the servicer can state the commission based on what it determines to be usual and customary.
- The seller must be released from all future liability on the 1st loan and subordinate liens.
- Foreclosure proceedings are suspended.

HAFAs Short Sales: U.S. Treasury, Fannie Mae, and Freddie Mac Programs

Slide 2-6

- Mortgage payments are reduced to an affordable level or not required.
- The seller receives \$3,000 in relocation expenses at close of escrow.
- Servicers receive incentives to process the short sale or DIL.
- Subordinate lien holders receive up to 6% of the UPB (unpaid principal balance) for any subordinate lien, capped at a total of \$6,000 for all subordinate liens.
- Investors are partially reimbursed for payments to subordinate lien holders, on a one for three basis up to \$2,000.

Exam Question 1

Who's Participating in HAFA?

Slide 2-7

All servicers who participate in HAMP are required to participate in HAFA. With Fannie and Freddie participation, most of first mortgage debt in the US is included. For a complete list of the servicers who are participating go to: www.MakingHomeAffordable.gov.

Each servicer must establish written policies, consistent with investor guidelines, which describe the basis on which the servicer will offer the HAFA program to borrowers. These policies can include considerations for local market conditions, the severity of the anticipated loss as well as the timing of foreclosure actions. Therefore, it is important to remember that just because a servicer of a non-GSE loan is participating in HAFA does not mean that the investor who owns the loan will be willing to approve a short sale. The investor may feel that a foreclosure will net the investor more money or for another reason decide not to allow a short sale.

Slide 2-8

Fannie and Freddie, as investors, establish guidelines for their loans and most of those are included in their respective HAFA documents mentioned previously.

Borrower Solicitation and Response

Slide 2-9

Borrowers who are delinquent may receive a solicitation letter from the servicer offering the borrower participation in the HAFA program. The borrower has 14 days to respond to the offer, orally or in writing.

Exam Question 13

Foreclosure Suspension

Slide 2-10

SD 09-09R states:

"Pursuant to the servicer's policy, every potentially eligible borrower must be considered for HAFA before the borrower's loan is referred to foreclosure or the servicer allows a pending foreclosure sale to be conducted."

The key here is the wording: "pursuant to the servicer's policy." Per investor guidelines, the servicer may decide not to proceed with a HAFA short sale because the foreclosure sale date is approaching. For example, Fannie Mae requires that the servicer obtain Fannie or Freddie's written permission to proceed with a HAFA short sale if the foreclosure sale date is within 60 days of the borrower's request for a short sale.

Slide 2-11

Once the servicer sends a Short Sale Agreement (SSA) to the borrower, the foreclosure process cannot be started or, if a sale has been scheduled, the sale cannot be held until the SSA is terminated for reasons discussed later in this course.

Important Note: The best time for a borrower to request a HAFA short sale is early in the delinquency process. Once a foreclosure sale has been scheduled, the nearer the sale date the greater the potential difficulty in either getting an SSA from a servicer or getting a servicer to approve an Alt RASS short sale submission.

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HAFA Consideration for Borrowers Already in HAMP

SD 09-09R states:

Slide 2-13

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

- *Does not qualify for a Trial Period Plan;*
- *Does not successfully complete a Trial Period Plan;*
- *Is delinquent on a HAMP modification by missing at least two consecutive payments; or*
- *Requests a short sale or DIL."*

HAFAs Considerations for Borrowers NOT in HAMP

Slide 2-14

If a borrower, who has not been evaluated for a HAMP modification, requests a short sale or DIL, the servicer must determine the basic eligibility of the borrower.

To do so SD 09-09R states:

"The servicer must obtain a completed Request for Modification and Affidavit (RMA) and evidence of the borrower's income sufficient to determine that the borrower meets the 31 percent income eligibility requirement and has experienced a hardship."

Exam Question 18

The RMA (Request for Modification and Affidavit) is a three-page form through which the borrower supplies information to the servicer to allow the servicer to determine the eligibility of the borrower for HAMP or HAFAs. The RMA requires the borrower to provide financial hardship information and income documentation. A borrower CANNOT be applying for a modification while attempting to affect a short sale.

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Slide 2-16

Borrowers in Bankruptcy

A borrower who is in active Chapter 7 or Chapter 13 bankruptcy must be considered for HAFAs if the borrower, the borrower's counsel or bankruptcy trustee requests consideration.

Request for Modification and Affidavit – Page 1

Making Home Affordable Program
Request For Modification and Affidavit (RMA)



Print Form

REQUEST FOR MODIFICATION AND AFFIDAVIT (RMA) page 1 COMPLETE ALL THREE PAGES OF THIS FORM

▶ Loan ID. Number ▶ Servicer

BORROWER	CO-BORROWER
Borrower's name <input type="text"/>	Co-borrower's name <input type="text"/>
Social Security number <input type="text"/> Date of birth <input type="text"/>	Social Security number <input type="text"/> Date of birth <input type="text"/>
Home phone number with area code <input type="text"/>	Home phone number with area code <input type="text"/>
Cell or work number with area code <input type="text"/>	Cell or work number with area code <input type="text"/>

I want to: Keep the Property Sell the Property

The property is my: Primary Residence Second Home Investment

The property is: Owner Occupied Renter Occupied Vacant

Mailing address

Property address (if same as mailing address, just write same) E-mail address

<p>Is the property listed for sale? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Have you received an offer on the property? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Date of offer <input type="text"/> Amount of offer \$ <input type="text"/></p> <p>Agent's Name: <input type="text"/></p> <p>Agent's Phone Number: <input type="text"/></p> <p>For Sale by Owner? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Have you contacted a credit-counseling agency for help? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please complete the following:</p> <p>Counselor's Name: <input type="text"/></p> <p>Agency Name: <input type="text"/></p> <p>Counselor's Phone Number: <input type="text"/></p> <p>Counselor's E-mail: <input type="text"/></p>
<p>Who pays the real estate tax bill on your property?</p> <p><input type="checkbox"/> I do <input type="checkbox"/> Lender does <input type="checkbox"/> Paid by condo or HOA</p> <p>Are the taxes current? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Condominium or HOA Fees <input type="checkbox"/> Yes <input type="checkbox"/> No \$ <input type="text"/></p> <p>Paid to: <input type="text"/></p>	<p>Who pays the hazard insurance premium for your property?</p> <p><input type="checkbox"/> I do <input type="checkbox"/> Lender does <input type="checkbox"/> Paid by Condo or HOA</p> <p>Is the policy current? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Name of Insurance Co.: <input type="text"/></p> <p>Insurance Co. Tel #: <input type="text"/></p>

Have you filed for bankruptcy? Yes No If yes: Chapter 7 Chapter 13 Filing Date:

Has your bankruptcy been discharged? Yes No Bankruptcy case number

Additional Liens/Mortgages or Judgments on this property:

Lien Holder's Name/Servicer	Balance	Contact Number	Loan Number
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

HARDSHIP AFFIDAVIT

I (We) am/are requesting review under the Making Home Affordable program.
I am having difficulty making my monthly payment because of financial difficulties created by (check all that apply):

<p><input type="checkbox"/> My household income has been reduced. For example: unemployment, underemployment, reduced pay or hours, decline in business earnings, death, disability or divorce of a borrower or co-borrower.</p> <p><input type="checkbox"/> My expenses have increased. For example: monthly mortgage payment reset, high medical or health care costs, uninsured losses, increased utilities or property taxes.</p> <p><input type="checkbox"/> Other: <input type="text"/></p>	<p><input type="checkbox"/> My monthly debt payments are excessive and I am overextended with my creditors. Debt includes credit cards, home equity or other debt.</p> <p><input type="checkbox"/> My cash reserves, including all liquid assets, are insufficient to maintain my current mortgage payment and cover basic living expenses at the same time.</p>
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Explanation (continue on back of page 3 if necessary):

page 1 of 3 ▶

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Request for Modification and Affidavit – Page 2

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REQUEST FOR MODIFICATION AND AFFIDAVIT (RMA) page 2		COMPLETE ALL THREE PAGES OF THIS FORM	
INCOME/EXPENSES FOR HOUSEHOLD¹			Number of People in Household: _____
Monthly Household Income		Monthly Household Expenses/Debt	
Monthly Gross Wages	\$ _____	First Mortgage Payment	\$ _____
Overtime	\$ _____	Second Mortgage Payment	\$ _____
Child Support / Alimony / Separation ²	\$ _____	Insurance	\$ _____
Social Security/SSDI	\$ _____	Property Taxes	\$ _____
Other monthly income from pensions, annuities or retirement plans	\$ _____	Credit Cards / Installment Loan(s) (total minimum payment per month)	\$ _____
Tips, commissions, bonus and self-employed income	\$ _____	Alimony, child support payments	\$ _____
Rents Received	\$ _____	Net Rental Expenses	\$ _____
Unemployment Income	\$ _____	HOA/Condo Fees/Property Maintenance	\$ _____
Food Stamps/Welfare	\$ _____	Car Payments	\$ _____
Other (investment income, royalties, interest, dividends etc.)	\$ _____	Other _____	\$ _____
Total (Gross Income)	\$ _____	Total Debt/Expenses	\$ _____
Household Assets			
Checking Account(s)		\$ _____	
Checking Account(s)		\$ _____	
Savings/ Money Market		\$ _____	
CDs		\$ _____	
Stocks / Bonds		\$ _____	
Other Cash on Hand		\$ _____	
Other Real Estate (estimated value)		\$ _____	
Other _____		\$ _____	
Other _____		\$ _____	
Do not include the value of life insurance or retirement plans when calculating assets (401k, pension funds, annuities, IRAs, Keogh plans, etc.)			
Total Assets		\$ _____	
INCOME MUST BE DOCUMENTED			
¹ Include combined income and expenses from the borrower and co-borrower (if any). If you include income and expenses from a household member who is not a borrower, please specify using the back of this form if necessary. ² You are not required to disclose Child Support, Alimony or Separation Maintenance Income, unless you choose to have it considered by your servicer.			
INFORMATION FOR GOVERNMENT MONITORING PURPOSES			
The following information is requested by the federal government in order to monitor compliance with federal statutes that prohibit discrimination in housing. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender or servicer may not discriminate either on the basis of this information, or on whether you choose to furnish it. If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, the lender or servicer is required to note the information on the basis of visual observation or surname if you have made this request for a loan modification in person. If you do not wish to furnish the information, please check the box below.			
BORROWER <input type="checkbox"/> I do not wish to furnish this information		CO-BORROWER <input type="checkbox"/> I do not wish to furnish this information	
Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino		Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	
Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White		Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	
Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male		Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male	
To be completed by Interviewer			
This request was taken by: <input type="checkbox"/> Face-to-face interview <input type="checkbox"/> Mail <input type="checkbox"/> Telephone <input type="checkbox"/> Internet	Interviewer's Name (print or type) & ID Number		Name/Address of Interviewer's Employer
	Interviewer's Signature Date		
	Interviewer's Phone Number (include area code)		

Request for Modification and Affidavit – Page 3

Slide 2-20

REQUEST FOR MODIFICATION AND AFFIDAVIT (RMA) page 3 COMPLETE ALL THREE PAGES OF THIS FORM

ACKNOWLEDGEMENT AND AGREEMENT

In making this request for consideration under the Making Home Affordable Program, I certify under penalty of perjury:

1. That all of the information in this document is truthful and the event(s) identified on page 1 is/are the reason that I need to request a modification of the terms of my mortgage loan, short sale or deed-in-lieu of foreclosure.
2. I understand that the Servicer, the U.S. Department of the Treasury, or their agents may investigate the accuracy of my statements and may require me to provide supporting documentation. I also understand that knowingly submitting false information may violate Federal law.
3. I understand the Servicer will pull a current credit report on all borrowers obligated on the Note.
4. I understand that if I have intentionally defaulted on my existing mortgage, engaged in fraud or misrepresented any fact(s) in connection with this document, the Servicer may cancel any Agreement under Making Home Affordable and may pursue foreclosure on my home.
5. That: my property is owner-occupied; I intend to reside in this property for the next twelve months; I have not received a condemnation notice; and there has been no change in the ownership of the Property since I signed the documents for the mortgage that I want to modify.
6. I am willing to provide all requested documents and to respond to all Servicer questions in a timely manner.
7. I understand that the Servicer will use the information in this document to evaluate my eligibility for a loan modification or short sale or deed-in-lieu of foreclosure, but the Servicer is not obligated to offer me assistance based solely on the statements in this document.
8. I am willing to commit to credit counseling if it is determined that my financial hardship is related to excessive debt.
9. I understand that the Servicer will collect and record personal information, including, but not limited to, my name, address, telephone number, social security number, credit score, income, payment history, government monitoring information, and information about account balances and activity. I understand and consent to the disclosure of my personal information and the terms of any Making Home Affordable Agreement by Servicer to (a) the U.S. Department of the Treasury, (b) Fannie Mae and Freddie Mac in connection with their responsibilities under the Homeowner Affordability and Stability Plan; (c) any investor, insurer, guarantor or servicer that owns, insures, guarantees or services my first lien or subordinate lien (if applicable) mortgage loan(s); (d) companies that perform support services in conjunction with Making Home Affordable; and (e) any HUD-certified housing counselor.

_____ Date
 Borrower Signature

_____ Date
 Co-Borrower Signature

HOMEOWNER'S HOTLINE

*If you have questions about this document or the modification process, please call your servicer.
 If you have questions about the program that your servicer cannot answer or need further counseling, you can call the Homeowner's HOPE™ Hotline at 1-888-995-HOPE (4673). The Hotline can help with questions about the program and offers free HUD-certified counseling services in English and Spanish.*

888-995-HOPE™
 Homeowner's HOPE™ Hotline

NOTICE TO BORROWERS

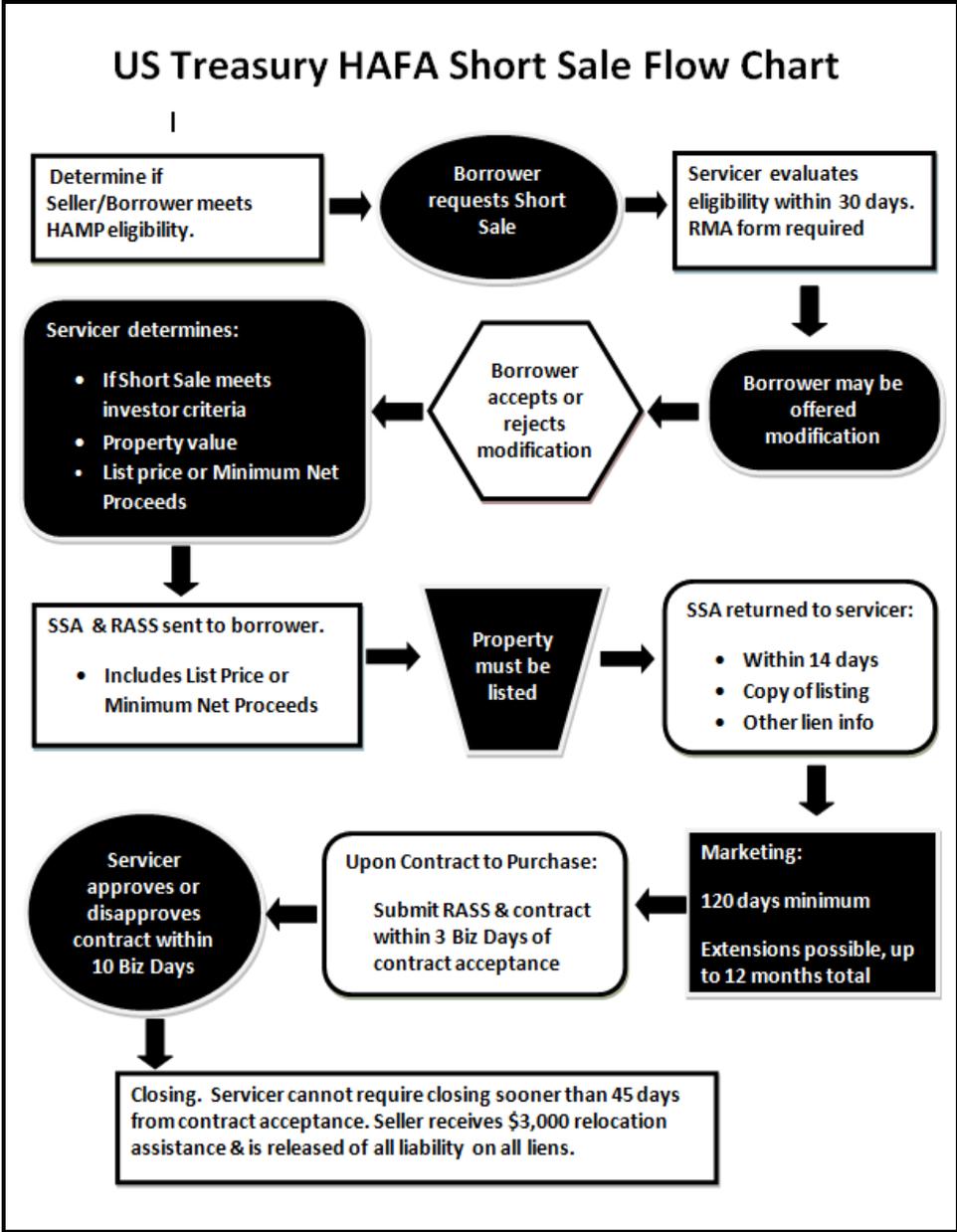
Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that:
 "Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct."
 If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or www.sig tarp.gov. Mail can be sent to Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.



page 3 of 3

NOTE: This is the RMA from the MakingHomeAffordable.gov Web site and is designed for a loan modification. Paragraph 5 of page 3 states that the borrower intends to remain in the home, which is not the case in a short sale. Servicers have modified this form and removed this language for borrowers requesting a HAFA short sale. Therefore, it is important to use the RMA and other forms that the specific loan servicer provides. Check the servicer's Web site for their forms.

Slide 2-21



HAFA Short Sale Process—Details

Step 1: Determine Seller's Eligibility

When listing a home that is likely to be a short sale the licensee should consult with the seller to determine if the loan and the seller will likely qualify for a HAFA short sale. The borrower must meet all the eligibility criteria.

Slide 2-22

- **The property is the borrower's principal residence.**

Slide 2-23

SD 09-09R provides an exception that allows the property to be vacant up to 90 days prior to the date of the Short Sale Agreement (SSA), Alternative Request for Approval of Short Sale (Alternative (RASS) or DIL Agreement if the borrower provides documentation that the borrower was required to relocate at least 100 miles from the property to accept new employment or was transferred by the current employer and there is no evidence indicating that the borrower has purchased a one- to four-unit property 90 days prior to the date of the SSA, Alternative RASS or DIL Agreement.

- **The mortgage is a 1st lien originated on or before 1-1-2009**

Slide 2-24

- **The mortgage is delinquent or default is reasonably foreseeable.**

A borrower that is current or less than 60 days delinquent who contacts the servicer for a modification or short sale must be screened for imminent default. In the process of making its imminent default determination, the servicer must evaluate the borrower's financial condition in light of the borrower's hardship as well as inquire as to the condition of and circumstances affecting the property securing the mortgage loan. The servicer must consider the borrower's financial condition, liquid assets, liabilities, combined monthly income from wages and all other identified sources of income, monthly obligations (including personal debts, revolving accounts, and installment loans), and a reasonable allowance for living expenses such as food, utilities, etc.

Slide 2-25

Slide 2-26

- **The current unpaid balance on a single family residence is equal to or less than \$729,750.**

Owner occupied 1-4 family units qualify for HAFAs. The current **unpaid principal balance of mortgage loans must be no greater than:**

- 1 Unit: \$729,750
- 2 Units: \$934,200
- 3 Units: \$1,129,250
- 4 Units: \$1,403,400

Slide 2-27

- **The borrower's total monthly mortgage payment on the 1st position loan exceeds 31 percent of the borrower's monthly gross income.**

The mortgage payment includes principal, interest, taxes, hazard insurance, flood insurance, condominium association fees and HOA fees. It does not include mortgage insurance premium payments or payments on subordinate liens.

The borrower's monthly gross income is the borrower's income amount before any payroll deductions and includes wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, other compensation for personal services, Social Security payments, including Social Security received by adults on behalf of minors or by minors intended for their own support, and monthly income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, unemployment benefits, rental income and other income.

Slide 2-28

- **The borrower can document a financial hardship.**

Every borrower and co-borrower seeking a modification, whether in default or not, must sign a Hardship Affidavit that attests to and describes one or more of the following types of hardship:

1. A reduction in or loss of income that was supporting the mortgage.
2. A change in household financial circumstances.
3. A recent or upcoming increase in the monthly mortgage payment.
4. An increase in other expenses.

5. A lack of sufficient cash reserves to maintain payment on the mortgage and cover basic living expenses at the same time. Cash reserves include assets such as cash, savings, money market funds, marketable stocks or bonds (excluding retirement accounts and assets that serve as emergency fund – generally equal to three times the borrower's monthly debt payments).
6. Excessive monthly debt payments and overextension with creditors, e.g., the borrower was required to use credit cards, a home equity loan, or other credit to make the mortgage payment.
7. Other reasons for hardship detailed by the borrower.

Step 2: Request a Short Sale

According to SD 09-09R the borrower may request the short sale either verbally or in writing. It is recommended that it be done in writing. Many of the servicers have their own forms and short sale packages so first check the servicer's Web site. In most cases you will need the loan number to access these forms. However, some servicer forms are available to the public.

Slide 2-29

Links to servicers' Web sites are at: www.MakingHomeAffordable.gov. To save some time, when requesting a short sale it may be a good idea for the seller to specifically indicate that the seller wants to proceed with a short sale and is not interested in a modification.

Servicers will require the borrower to complete the RMA along with IRS form 4506T which allows the servicer to obtain a transcript of the borrower's tax returns.

Step 3: Servicer Evaluation

SD 09-09R states: *"Servicers must consider possible HAMP eligible borrowers for HAFA within 30 calendar days of the date the borrower:*

Slide 2-30

- *Does not qualify for a Trial Period Plan;*
- *Does not successfully complete a Trial Period Plan;*
- *Is delinquent on a HAMP modification by missing at least two consecutive payments; or*
- *Requests a short sale or DIL.*

The date and outcome of the HAFAs consideration must be documented in the servicer's file."

It is not necessary for a borrower to go through a modification process. The borrower may request to go directly to a short sale.

Once the borrower has requested a short sale and provided the servicer with all required documentation, the servicer has 30 calendar days in which to evaluate the borrower, determine eligibility and notify the borrower of the availability of a modification or short sale. Upon receiving this notification the borrower has 14 calendar days to respond. The borrower may choose to proceed with a modification, a short sale or DIL.

Some servicers will bypass the step offering a modification if, in the initial request, the borrower has specifically requested a short sale and indicated the desire not to attempt a loan modification.

The servicer is likely to perform a financial analysis to determine if a short sale is in the best interest of the investor and any guarantors or mortgage insurers. If it is determined not to be in these parties best interest a short sale may be denied.

When a HAFAs short sale is denied, the servicer must communicate this decision in writing to the borrower. The notice must explain why a HAFAs short sale or DIL cannot be offered and provide a toll free telephone number that the customer may call to discuss the decision.

Step 4: Modification or Short Sale

If a borrower is deemed to be eligible, servicers may offer the borrower either a modification or short sale. As mentioned above, some servicers will bypass offering the modification if, in the initial request, the borrower has specifically requested a short sale and indicated the desire not to attempt a loan modification. The borrower has 14 calendar days to respond and indicate their preference. When the borrower indicates the desire to proceed with a short sale the servicer will undertake the process of issuing a SSA (Short Sale Agreement) and RASS (Request for Approval of a Short Sale) to the borrower.

Step 5: Issuance of the SSA and RASS

If the borrower is interested and the servicer decides to offer the short sale option to the homeowner, the servicer fills out a SSA (Short Sale

Slide 2-31

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Module 2. U.S. Treasury's HAFA Program

Agreement), with a copy of a RASS (Request for Approval of a Short Sale), and transmits it to the borrower.

The SSA outlines the roles and responsibilities of the servicer and borrower and provides key marketing terms, including list price or acceptable sales proceeds and the approvable closing costs. If the borrower submits an executed sales contract to the servicer consistent with all the conditions of the SSA, the servicer should approve the short sale.

The SSA must be signed by the borrower and listing agent (risk management issue) and **returned to the servicer within 14 calendar days of its "Effective Date."** The Effective Date must be stated in the SSA and is the date the SSA is mailed to the borrower. At this point the property **must be listed** with a real estate broker. A copy of the **listing agreement must accompany the SSA when returned to the servicer.**

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Exam Question 9

The SSA will include either a list price or the minimum net proceeds the servicer will accept from the transaction. SD 09-09R states:

"The minimum net may be expressed as a fixed dollar amount, as a percentage of the current market value of the property, or as a percentage of the list price as approved by the servicer. Once determined, the servicer must document the minimum net in the servicing file for each property subject to HAFA. After signing an SSA, the servicer may not increase the minimum net requirement until the initial SSA termination date is reached (not less than 120 calendar days). Subsequent changes to the minimum net when the SSA is extended must be documented."

Slide 2-34

The licensee and seller should look at the required list price and/or minimum net proceeds and determine if a short sale under these terms can be realistically achieved. If unrealistic, the licensee should discuss this issue with the servicer.

Slide 2-35

Step 6: Marketing

The SSA allows a minimum of 120 calendar days from the Effective Date for marketing the property. With the servicer's permission the marketing time can be extended up to a total term of 12 months.

Exam Question 8

Step 7: RASS and Purchase Agreement

Slide 2-36

The RASS is held by the seller or listing agent until an executed sales contract is entered into by the seller and a qualified buyer. Within **3 business days** following receipt of an executed purchase offer, the

borrower or the listing broker should deliver a completed RASS describing the terms of the transaction. The RASS must be accompanied by:

- A copy of the executed sales contract and all addenda.
- The 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.

Slide 2-37

Step 8: Approval or Disapproval

Exam Question 14

Within 10 business days of receipt of the RASS and all required attachments, the servicer must approve or disapprove the sale.

The servicer must approve a RASS if the net sale proceeds available 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 have been met. 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 SSA.

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Step 9: Closing

Closing can take place as soon as possible. The servicer may require that closing take place within a reasonable time following acceptance of the RASS, but may not require that a transaction close in less than 45 calendar days from the date of the sales contract without the borrower's consent.

It is important to note that the 45 days is from the date of the sales contract and not the notice of approval. Given that the seller has 3 business days to submit the RASS and the servicer has 10 business days (in essence 14 calendar days) to deliver the approval notice, as much as 17 calendar days of the minimum 45 days to close might be eaten up. Licensees, buyers and sellers should take this into account when specifying a contract closing date and planning inspections, appraisals and other issues relating to closing.

MODULE 3. THE SSA—DETAILED DISCUSSION

Slide 3-1

HAFAs require the use of standardized forms. Each servicer must use the SSA as directed in SD 09-09R except that the servicer may amend the terms of the SSA or DIL Agreement in accordance with investor requirements, applicable laws or local real estate practice and may customize the forms with servicer specific logos.

The SSA is a seven-page agreement (though this could change based depending on how it is customized by a servicer), including a cover letter, that specifies the terms and conditions under which the servicer will pre-approve a short sale. In this section we will look at the main points of the SSA.

SSA Page 1: Cover Letter (top)

HELP FOR AMERICA'S HOMEOWNERS.			
[Name of Servicer]	[Address of Servicer]	[Name of Borrower]	[Name of Co-Borrower]
[Loan #]	[Servicer FAX]	[Address of Borrower]	[Borrower Phone]
[Servicer Email]		[Borrower Email]	
[Date]			
Dear [borrower and co-borrower name(s)]:			
If you are looking for help selling your home and avoiding foreclosure, the federal government has introduced the Home Affordable Foreclosure Alternatives (HAFA) Program to help you. As your mortgage servicer, we are offering you the opportunity to participate in this program by utilizing HAFA's short sale option.			
Home Affordable Foreclosure Alternatives Program – Short Sale			
A "short sale" is specifically designed to help borrowers who are unable to afford their first mortgage and want to sell their home to avoid foreclosure, even if the sale price may not pay off the amount owed on their mortgage. A short sale requires a number of parties (you, the buyer, your real estate broker, and sometimes mortgage insurance companies and other lenders) to work together to make this option successful. However, it could be a good solution for your current situation.			

Slide 3-2

The cover letter introduces HAFA to the borrower and provides the borrower with a brief overview of the HAFA short sale process.

SSA Page 1: Cover Letter (bottom)

Slide 3-3

How Does a Short Sale Work?

- **Pre-Sale**—We will start by approving a list price for your home or give you the acceptable sale proceeds (the minimum amount that we must receive after sales costs) from the sale of your home. We will also identify the sales costs (broker commissions and closing costs) that may be deducted from the final sales price. You then list your property (like any home sale) with a local real estate broker at the approved price.
- **Offer**—When you get an offer on your home, you will submit the required documentation and we will approve the sale if it is in line with what we agreed to.
- **Closing**—Once the sale closes, we will release you from all responsibilities for repaying your mortgage. Plus, you will receive \$3,000 to help pay some of your moving expenses. (The check will be paid to you by the settlement agent as part of the closing.) In the event there is any money left over from the sale after paying the entire amount you owe on the mortgage plus the approved sale costs, you will not be eligible to receive the \$3,000.

To Participate in the Short Sale Program

Please note, there is no guarantee that your home will sell under this program, and you are responsible for determining whether you want to sell your home for the price and terms described in this letter. The following pages detail your responsibilities, additional information on the short sale process and the Terms and Conditions. **Additionally, this letter constitutes an agreement between us and you (“Agreement”) so please read it carefully and completely.**

If you agree to the terms of the Agreement and want to proceed with a short sale, you must complete, sign and return the Agreement back to us. If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

Sincerely,
[Servicer Name]

"To Participate in the Short Sale Program

Please note, there is no guarantee that your home will sell under this program, and you are responsible for determining whether you want to sell your home for the price and terms described in this letter. The following pages detail your responsibilities, additional information on the short sale process and the Terms and Conditions. Additionally, this letter constitutes an agreement between us and you (“Agreement”) so please read it carefully and completely."

SSA Page 2 (top)

Important Program Information



To Accept This Offer

- Please sign and return this Agreement. All owners of the property must sign this Agreement.
- Obtain your broker's signature to acknowledge this Agreement, because your broker plays an important role selling your property. The Short Sale Program sections (pages 2-4) contain important information that you and your broker will need to review and discuss.
- Include a copy of your signed listing agreement.
- Include information on other liens secured by your home (such as home equity loans, homeowner association liens, tax liens or judgments).
- [Insert only if applicable:] Complete and sign the Hardship Affidavit form.

We must have these documents by [insert date 14 calendar days from this request]. Please send us these documents at the following address: [insert servicer address].

Slide 3-4

When Should the Licensee List the Property?

The property must be listed at or prior to the time the SSA is returned to the servicer. There is no prohibition against listing prior to the issuance of the SSA and SD 09-09R is somewhat confusing as to commissions paid to agents. On page 7, SD 09-09R states that the SSA must contain: *"The amount of the real estate commission that may be paid, not to exceed 6% of the contract sales price..."* while on page 3 it states that a HAFA short sale, *" Prohibits the servicer from requiring, as a condition of approving the short sale, a reduction in the real estate commission agreed upon in the listing agreement."* Based on these statements it is probably smart to list the property at the time of initial consultation with the seller and submit a copy of the listing when the seller initially requests a short sale. However, at the time the servicer issues the SSA the servicer may require the list price and commission be changed or the old listing to be cancelled and replaced with one based on the terms of the SSA.

Slide 3-5

Once there is an executed SSA, the commission cannot be reduced in subsequent negotiations when considering approval of an executed sales contract and RASS.

See page 5 of the SSA for specific language that must be included in the listing agreement.

Subordinate Lien Information

Rather than wait until the SSA is issued, information about other liens on the property should be gathered after the initial meeting with the seller.

Keep in mind that if a HAFAs short sale is not approved, this same information is needed for a non-HAFAs short sale. No short sale can occur unless all liens are released, regardless of the form of the short sale.

SSA Page 2 (bottom)

Slide 3-6

Short Sale Program—Your Responsibilities

You have until *[insert date 120 calendar days from the date of this letter]* to sell your house. After that date, this Agreement terminates, unless it is extended by us. During this time you have certain responsibilities. You must:

- ❶ Keep your house and your property in good condition and repair and cooperate with your broker to show it to potential buyers.
- ❷ *[Insert only if applicable:]* Make partial mortgage payments of \$_____ by the first day of each month beginning on _____ 1, 20__ until your house is sold and title is transferred. While you are selling your house, you still legally owe the full amount of your current monthly mortgage payment. However, as part of this Agreement, we will accept this reduced payment until the house is sold and closes or this Agreement expires. These payments do not constitute a modification of your mortgage.
- ❸ Be able to provide the buyer of your home with clear title. To start, determine if you have other loans, judgments or liens secured by your home, such as a home-equity line of credit or a second mortgage. If there are such liens, you will need to either pay these loans off in full or negotiate with the lien holders to release them before the closing date. Under this program, you must make sure other lien holders will agree not to pursue other legal action related to the pay off of their lien, such as a deficiency judgment. You can get help from your broker to negotiate with the other lien holders.
- ❹ We may allow up to 6% of the unpaid principal balance of each loan (not to exceed an aggregate of \$6,000 for all the loans in total) to be paid from the sale proceeds to help get a lien release. If you have these types of liens or loans on your home, please gather any paperwork you have (such as your last statement) and send it to us when you return this signed Agreement. Remember, clearing these other liens and delivering clear and marketable title is your responsibility.
- ❺ At several stages of the short sale process, such as after an offer is received, you will need to complete some paperwork. You are responsible for returning all documents within the time allowed in this Agreement.

If you fulfill these responsibilities, we will postpone any foreclosure sale during the period of this Agreement.

Slide 3-7

Must the Borrower Make Monthly Payments?

Slide 3-8

If the borrower has the means, the servicer may require the borrower to make payments during the marketing period. If a payment is required, it may discourage the seller from proceeding with the HAFAs short sale. The Treasury and Fannie Mae may require payments described in the SD 09-09R as “Partial Mortgage Payments”. Freddie Mac makes payments mandatory.

Slide 3-9

Provide Clear Title

The borrower must be able to provide clear title. Subordinate lien holders must agree to release their liens and to release the homeowner from all deficiency liability.

Subordinate Lien Payoffs

In a HAFA short sale subordinate lien holders can receive up to 6% of their unpaid principal loan balance up to a maximum of \$6,000. The \$6,000 is the aggregate total that can be paid to all subordinate lien holders for the transaction to close as a HAFA short sale.

Slide 3-10

Exam Question 2

Examples with one subordinate lien:

Slide 3-11

- 2nd lien of \$50,000

$\$50,000 \times 6\% = \$3,000$. Second lien holder will receive \$3,000.

- 2nd lien of \$100,000

$\$100,000 \times 6\% = \$6,000$. Second lien holder will receive \$6,000.

- 2nd lien of \$150,000

$\$150,000 \times 6\% = \$9,000$. Second lien holder will receive \$6,000.

Slide 3-12

Examples with two subordinate liens:

Slide 3-13

- 2nd lien of \$50,000; 3rd lien of \$30,000

$\$50,000 \times 6\% = \$3,000$ to 2nd lien holder

$\$30,000 \times 6\% = \$1,800$ to 3rd lien holder

Exam Question 22

- 2nd lien of \$90,000; 3rd lien of \$30,000

$\$90,000 \times 6\% = \$5,400$ to 2nd lien holder

$\$30,000 \times 6\% = \$1,800$ 3rd lien holder will receive \$600, not \$1,800 because the maximum aggregate is \$6,000 to all subordinate lien holders.

Slide 3-14

In short sales, the licensee is usually the person who negotiates the payoffs with subordinate lien holders. As a condition of accepting this payoff, the subordinate lien holder must release the lien and must release the borrower from all future liability on the loan and may not require the borrower or the licensee to pay any additional money to pay off the subordinate lien or sign a promissory note. Because this liability release issue is frequently resolved late in the process, or not resolved at

Exam Question 27

all, it is possible that this issue could push a short sale out of the HAFAs program just prior to close.

HOA/Condo Association liens are also included in the 6% of the unpaid balance up to an aggregate of \$6,000 available to subordinate lien holders and must all be released from the property with no further liability for the seller in order to qualify as a HAFAs short sale.

Note: In many foreclosure scenarios of properties in which the property is worth less than the first mortgage lien, when the first mortgage is foreclosed and the property is sold on the courthouse steps, a subordinate lien holder's lien on the property is wiped out. **HOWEVER**, in most states the "sold out junior lien holder" has, and will likely pursue, broad post-foreclosure collection rights based on the promissory note. This debt is actively bought and sold on the scratch and dent market and frequently lands in the hands of companies that are aggressive debt collectors. Most of the post-foreclosure collection rights a creditor does, or does not have, are a function of state statute. There are numerous factors that play into the settlement of subordinate debt, but are beyond the scope of this course. It is extremely important for a seller to consult with legal counsel on these matters.

Slide 3-15

Foreclosure Postponement

The last line of page 2 states that the servicer will postpone the foreclosure sale if the borrower fulfills his/her responsibilities. SD 09-09R states:

Slide 3-16

"At the servicer's discretion, the servicer may initiate foreclosure or continue with an existing foreclosure proceeding during the HAFAs process, but may not complete a foreclosure sale:

- *While determining the borrower's eligibility & qualification for HAFAs.*
- *While awaiting the timely return of a fully executed SSA.*
- *During the term of a fully executed SSA.*
- *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 in the SSA or DIL Agreement."*

Exam Question 12

Module 3. The SSA—Detailed Discussion

This means the servicer may initiate a foreclosure action or continue one that is in progress but may not bring the property to a foreclosure sale from the time the borrower's eligibility is being determined through the closing date. As a result, if an agent is unable to get a HAFA short sale completed in the time initially allotted and the servicer is unwilling to extend the SSA, a foreclosure could be completed very soon after the expiration of the SSA, or any extension thereto.

SSA Page 3 (top)

Important Program Information



Short Sale Program—Additional Information

- You can't list the property with or sell it to anyone that you are related to or have a close personal or business relationship with. In legal language, it must be an "arm's length transaction." If you have a real estate license you can't earn a commission by listing your own property. You may not have any agreements to receive a portion of the commission or the sales price after closing. Any buyer of your property must agree to not sell the home within 90 calendar days of the date it is sold by you. You may not have any expectation that you will be able to buy or rent [servicer may delete "or rent" in accordance with investor guidelines] your house back after the closing. Any knowing violation of the arm's length transaction prohibition may be a violation of federal law.
- We will need to talk to your broker and others involved in the sale. By signing this Agreement, you are authorizing us to communicate and share personal financial information about your mortgage, credit history, subordinate liens, and plans for relocation with your broker and other third parties that could be involved in the transaction including employees of the United States Treasury and its financial agents, Fannie Mae and Freddie Mac.
- The difference between the remaining amount of principal you owe and the amount that we receive from the sale must be reported to the Internal Revenue Service (IRS) on Form 1099C, as debt forgiveness. In some cases, debt forgiveness could be taxed as income. The amount we pay you for moving expenses may also be reported as income. We suggest that you contact the IRS or your tax preparer to determine if you may have any tax liability.
- We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over, or responsibility for the impact of this report on your credit score. To learn more about the potential impact of a short sale on your credit you may want to go to <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm>.

Slide 3-17

The first bulleted paragraph on page 3 contains the following caveats:

■ Arm's length transaction

Slide 3-18

The property cannot be listed with or sold to anyone that the borrower is related to or has a close personal or business relationship with. Here is a quote from HAFA Q&A on www.Realtor.org:

"Arm's Length Transaction"

Slide 3-19

"Q: May sellers who are real estate agents list with their broker?"

"A: No, this would violate the arm's length transaction provision that prevents the seller from listing the property with anyone they have a close personal or business relationship with. This is an anti-fraud provision. If

Exam Question 16

Slide 3-20

the property is listed by an agent with their broker the risk of an "incentive" being paid and the seller profiting from the transaction increases."

Exam Question 15

■ **Neither seller nor buyer may earn a commission**

Slide 3-21

If the seller is a licensed real estate agent, no commission, referral fee or other compensation can be received. The RASS (Request for Approval of Short Sale) also prohibits sellers and buyers from receiving any funds or commissions from the sale of the property.

Exam Question 20

■ **Resale restriction on buyer**

The buyer is prohibited from reselling the property within 90 calendar days of closing.

Exam Question 29

■ **Seller cannot re-purchase or lease**

The seller is prohibited from buying the house back or renting it from the buyer.

Fannie Mae does have a lease-back program called Deed-for-Lease after the borrower gives Fannie Mae a Deed-in-Lieu of foreclosure. It will be discussed later in this course.

Slide 3-22

The second bulleted paragraph contains the seller's authorization to allow the servicer to communicate and share personal financial information with the real estate broker and others involved in the sale. The personal information is that related to the mortgage, credit history, subordinate liens, and relocation plans.

Slide 3-23

The third bulleted paragraph addresses the fact the debt forgiveness may be taxable and will be reported to the IRS. The rules are quite complex and every transaction will have a different consequence for the seller. At the time of listing the property licensees should recommend that the seller seek professional advice regarding possible tax liability.

Slide 3-24

The fourth bulleted paragraph states that the settlement of the debt will be reported to credit bureaus as "settled for less than the full payment."

SSA Page 3 (bottom)

[Insert optional Deed-in-Lieu language if applicable:

If by the termination date of this Agreement, you have complied with all your responsibilities but are unable to sell your home, we will allow you to convey ownership of your home and all real property secured by your mortgage loan (your "Property"). While this action, called a deed-in-lieu of foreclosure, will not allow you to keep your Property, it will prevent you from going through a foreclosure sale and it will release you from all responsibility to repay the mortgage debt. Additionally, you will still be eligible to receive \$3,000 to help with your moving expenses.

You and all other occupants must vacate your Property and provide clear and marketable title with a general warranty deed or local equivalent by *[insert date at least 30 days after the date of this Agreement]*. You must leave the house in broom clean condition, free of interior and exterior trash, debris or damage, and all personal belongings must be removed from the Property. The yard must be clean and neat and you must deliver all the keys and controls, such as garage door openers, to us. You may be required to sign standard pre-closing documents as well as attend a closing of the conveyance of your Property where all borrowers on the mortgage must be present.

You must also be able to deliver marketable title free of any other liens. We will allow up to six percent (6%) of the unpaid principal balance of each subordinate lien, in order of priority, not to exceed \$6,000 in aggregate for all subordinate liens, to be deducted from the sale proceeds to pay subordinate lien holders to release their liens. We require each subordinate lien holder to release you from personal liability for the loans in order for the sale to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.

By signing this letter, you are agreeing not only to a short sale but also to a deed-in-lieu of foreclosure if a short sale is not successful. If you have any questions about the deed-in-lieu of foreclosure, please call us before signing and returning this letter.]

Slide 3-25

Deed-in-Lieu of Foreclosure (DIL)

If the borrower can't sell the property or if the agreement is terminated for any reason, the servicer may ask for a DIL; in other words, deed the property over to the lender.

Slide 3-26

Since a DIL is a voluntary transfer from the borrower to the investor, servicers will only take a DIL if all subordinate liens are released. The junior lien holders must also release the borrower from any deficiency.

Hafa allows up to 6% of any subordinate lien amount to be offered to each subordinate lien holder but not to exceed a total of \$6,000 for all subordinate lien holders.

If there are no junior liens, a DIL can be affected easily. If subordinate liens do exist, the negotiation with the lien holder is approached in the same way it would be in a short sale. Hafa has no provision for licensees to be paid a commission for assisting with a DIL transaction though individual servicers may offer compensation to agents for assisting with the Deed-in-Lieu.

In the last paragraph of the DIL section, the borrower agrees to the DIL if short sale can't be accomplished. A question arises as to what happens if the seller accepts the SSA, can't sell the property and does not sign over

the property through the DIL. The answer is that the lender will have to proceed with the foreclosure to acquire the property.

SSA Page 4

Slide 3-27

Important Program Information 

Short Sale Program—Receiving/Accepting an Offer

When you receive an offer on your home, within the next 3 business days, you will send us a Request to Approve a Short Sale (RASS) form, a copy of which is attached to this Agreement as Exhibit A1. You will also need to send along a copy of the signed purchase offer and evidence that the buyer has funds to purchase the home, such as a letter that the buyer is approved for a mortgage loan. Within 10 business days of our receipt of these documents, we will approve the sale if it is within the terms and conditions of this Agreement and any other liens are released.

When the sale closes in accordance with this Agreement, we will accept the net sale proceeds (all the funds that remain after the approved sales costs have been paid) in full satisfaction of your mortgage with us and will release you from all future liability.

We hope you decide to take advantage of this short sale option. If you or your broker have any questions about this Agreement please call us at [insert servicer phone number].

If you would like to speak with a counselor about this program, call the Homeowner's HOPE™ Hotline 1-888-995-HOPE (4673). The Homeowner's HOPE™ Hotline offers free HUD-certified counseling services and is available 24/7 in English and Spanish. Other languages are available by appointment.

Slide 3-28

Contract Acceptance and the RASS

Once an offer is accepted by the seller, the following items must be submitted to the servicer **within 3 business days**:

- The sales contract
- All addenda
- The completed RASS (Request to Approve a Short Sale)
- Buyer's proof of funds or approval letter (on mortgage company letterhead)

Within 10 business days, if the purchase agreement meets or exceeds the terms of the SSA, the servicer must approve the agreement.

Slide 3-29

Pages 5 and 6: Program Terms and Conditions

Pages 5 and 6 contain the actual agreement terms and conditions. What follows is an analysis of each separate paragraph.

SSA Page 5

<p>Program Terms And Conditions</p> <p>Short Sale Agreement Terms and Conditions</p> <p>1. List Price or Acceptable Sale Proceeds. <i>[Choose one and delete unnecessary text.]</i> [You agree to list the property in “as is” condition for [dollar amount].] OR [We will accept a sales contract where the proceeds from the sale, less the expenses stated in paragraph 5. <i>Allowable Costs</i>, nets [dollar amount].] We are not responsible for the accuracy of the list price and have no responsibility to you in the event the property is not sold. We may require you to adjust the list price or other offer terms.</p>	
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Slide 3-30

Paragraph 1: List Price or Acceptable Sale Proceeds

The SSA will state either a list price or a minimum acceptable net proceeds. Behind the scenes the servicer has probably determined a minimum net proceeds but it is more likely that a list price will be stated in the SSA rather than a minimum net proceeds. If the seller and agent knew the minimum net it might tend to encourage offers that just meet that minimum amount. If the minimum net is not known better offers would probably be encouraged.

In Fannie Mae and Freddie Mac HAFA short sales, disclosure of the minimum net proceeds to the seller or agent is prohibited.

The seller and licensee should carefully determine the feasibility of marketing and selling the home at the price suggested in the SSA. If it is deemed unachievable, the licensee should attempt to demonstrate to the servicer why the servicer's price is unrealistic and try to obtain an adjustment in the price before the borrower and broker sign and return the SSA.

<p>2. Listing Agreement. The listing agreement must include the following clauses:</p> <p>a. Cancellation Clause. “Seller may cancel this Agreement prior to the ending date of the listing period without advance notice to the broker, and without payment of a commission or any other consideration, if the property is conveyed to the mortgage insurer or the mortgage holder.”</p> <p>b. Listing Agreement Contingency Clause. “Sale of the property is contingent on written agreement to all sale terms by the mortgage holder and the mortgage insurer (if applicable).”</p>

Paragraph 2: Listing Agreement and Required Listing Contract Language

Slide 3-31

When listing the home include the **exact language** stated in paragraph 2 above.

The "Cancellation Clause" allows the seller to cancel the agreement in the event a DIL is executed. In this event the broker is not entitled to a commission.

3. **Property Maintenance and Expenses.** You are responsible for all property maintenance and expenses during the listing period including utilities, assessments, association dues and costs for interior and exterior upkeep required to show the property to its best advantage. Additionally, until ownership is transferred, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses as provided in the mortgage documents, we may require that they be applied to reduce the mortgage debt.

Slide 3-32

Paragraph 3: Property Maintenance and Expenses

Seller is responsible for property maintenance and expenses. Damage must be reported and insurance claims filed.

4. *[Insert only if applicable:]* **Partial Mortgage Payments.** Beginning on _____ 1, 20___, you will be required to make partial mortgage payments of \$_____ by the first day of each month during the term of the Agreement and pending transfer of property ownership. You are legally obligated to make the full amount of your current monthly mortgage payments. However, we will accept this reduced partial payment until the house is sold or this Agreement expires. The partial mortgage payments do not constitute a modification of your mortgage.

Slide 3-33

Paragraph 4: Partial Mortgage Payments

Based on the borrower's income and assets, the servicer may require the seller to make regular monthly payments in an amount that will be specified here, during the term of the SSA. This may be unrealistic in light of the seller's personal and financial condition and may cause the seller to decide not to proceed with the HAFAs short sale.

Freddie Mac requires the borrower to make a payment equal to 31% of the borrower's gross income.

5. **Allowable Costs that May be Deducted from Gross Sale Proceeds**

a. **Closing Costs.** The closing costs paid by you or on your behalf as seller must be reasonable and customary for the market. *[Choose one and delete unnecessary text.]* [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed \$_____.] *OR* [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed ___% of the list price.] *OR* [Closing costs which may be deducted from the gross sale proceeds are limited to title search and escrow expenses usually paid by the seller; reasonable settlement escrow/attorney's fees; transfer taxes and recording fees usually paid by the seller; termite inspection and treatment as required by law or custom; pro-rated real property taxes; and, real estate commissions of ___ percent of the contract sales price [add other closing costs that may be included].]

b. **Subordinate Liens.** We will allow up to six percent (6%) of the unpaid principal balance of each subordinate lien in order of priority, not to exceed a total of \$6,000, to be deducted from the gross sale proceeds to pay subordinate lien holders to release their liens. We require each subordinate lien holder to release you from personal liability for the loans in order for the sale to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.

c. **Real Estate Commissions.** We will allow to be paid from sale proceeds, real estate commissions of _____ percent of the contract sales price, to be paid to the listing and selling brokers involved in the transaction. Neither you nor the buyer may receive a commission. Any commission that would otherwise be paid to you or the buyer must be reduced from the commission due on sale. *[Optional text:]* Please note: We have retained a vendor to assist your listing broker with the sale. The vendor and your listing broker will work together on your behalf to facilitate the sale process. *[Choose one and delete unnecessary text.]* [The vendor will be paid from sale proceeds [\$ _____] *OR* [an amount equal to ___% of the sales price].] *OR* [The vendor will be paid by us outside of the sales transaction.]

d. **Borrower Relocation Assistance.** If the closing of the short sale occurs in accordance with this Agreement, you will be entitled to an incentive payment of \$3,000 to assist with relocation expenses. We will instruct the settlement agent to pay you from the sale proceeds at the same time that all other payments, including the payoff of our first mortgage, are disbursed by the settlement agent. Only one payment per household is provided for the relocation assistance, regardless of the number of borrowers.

Paragraph 5a: Closing Costs

Slide 3-34

Closing costs must be "reasonable and customary for the market."
Servicer will select one of the three options:

- Total costs may not exceed \$_____.
- Total costs may not exceed _____% of list price. (Freddie Mac caps closing costs at 9% in the aggregate as follows: reasonable closing costs of up to 3% and a commission of up to 6%.)
- Itemized allowable closing costs including commission of _____% of sales price

Paragraph 5b: Subordinate Liens

This paragraph restates the 6% up to \$6,000 allowance for subordinate lien holders. In negotiating with subordinate lien holders it is required to obtain written agreement releasing the seller from the lien and from all liability.

Slide 3-35

Paragraph 5c: Real Estate Commissions

The approved commission percentage is stated here. Neither the seller nor the buyer may receive a commission. If a licensee has offered the seller or buyer a rebate on a portion of the commission, the licensee's commission will be reduced by the amount of the rebate and the rebate may not be paid.

Slide 3-36

Slide 3-37

The optional language in paragraph 5c would be included if the servicer hires a third party to help facilitate the sale. These "short sale negotiation fees" may be paid within or outside the transaction. The original SD 09-09 issued on November 30, 2009, stated that this short sale negotiator/vendor would be paid out of the real estate agent's commission. This is not allowed. The National Association of REALTORS® was very instrumental in having that language changed. Fannie and Freddie will pay the commission in the listing agreement, but not more than 6%.

Slide 3-38

Exam Question 19

Slide 3-39

Paragraph 5d: Borrower Relocation Assistance

The borrower will receive \$3,000 at the closing of the sale. This is a fixed amount, one per household. The buyer may not use this or any other

Exam Question 4

amount to increase the incentive paid to subordinate lien holders. The HAFAs incentive rules are firm.

SSA Page 6

6. **Sales Contracts.** Within three business days of a bona-fide purchase offer, you must submit a Request for Approval of a Short Sale, which is attached as Exhibit A1, along with a copy of a fully executed Sales Contract, all addenda and Buyer's documentation of funds or Buyer's pre-approval or commitment letter on letterhead from a lender.
7. **Parties to the Sale.** The Sales Contract must contain the following clauses: "Seller and Buyer each represent that the sale is an "arm's length" transaction and the Seller and Buyer are unrelated to each other by family, marriage or commercial enterprise." "The Buyer agrees not to sell the property within 90 days of closing of this sale."
8. **Closing.** The closing must occur within ____ calendar days of the Sales Contract execution date.
9. **Foreclosure Sale Suspension.** We may initiate or continue the foreclosure process as permitted by the mortgage documents; however, we will suspend any foreclosure sale date until the expiration date of this Agreement or the date of closing of an approved short sale, whichever is later, provided you continue to abide by the terms and conditions of this Agreement.
10. **Satisfaction and Release of Liability.** If all of the terms and conditions of this Agreement are met, upon sale and settlement of the property, servicer will prepare and send for recording a lien release in full satisfaction of the mortgage, foregoing all rights to personal liability or deficiency judgment.

Slide 3-40

Paragraph 6: Sales Contracts

This paragraph reiterates the requirement to submit the contract along with the RASS and supporting documents within three business days of receipt of a fully executed sale contract.

Slide 3-41

Paragraph 7: Parties to the Sale and Required Purchase Agreement Wording

Specifies the exact wording required to be included in the sales contract. It is a good idea to include this wording in the listing agreement so the buyer and the buyer's agent understand the "Arm's Length" provision and the 90 day restriction on re-sale. If an offer is presented without this wording the seller and listing agent must counter the offer to include it.

Slide 3-42

Paragraph 8: Closing

The deadline for the closing cannot be less than 45 calendar days. Remember, the closing time period begins at the date of contract execution. Closing may occur earlier.

Slide 3-43

Paragraph 9: Foreclosure Sale Suspension

Reiterates the provision that the servicer will not allow a foreclosure sale to occur while the SSA is in effect or the transaction is moving to closing.

Paragraph 10: Satisfaction and Release of Liability

Servicer agrees to release the lien and forego all rights to hold the borrower personally liable or to pursue a deficiency judgment.

Slide 3-44

SSA Page 6 (cont'd.)

- | |
|--|
| <p>11. <i>[Insert only if applicable.]</i> Mortgage Insurer or Guarantor Approval. The terms and conditions of the sale are subject to the written approval of the mortgage insurer or guarantor.</p> <p>12. Termination of this Agreement. Unless otherwise agreed by the parties, this Agreement will terminate on <i>[insert date]</i>. We may also terminate this Agreement at any time if:</p> <ul style="list-style-type: none">a. Your financial situation improves significantly, you qualify for loan modification, you bring the account current or you pay off the mortgage in full.b. You or your broker fails to act in good faith in marketing and /or closing on the sale of the property, or otherwise fails to abide by the terms of this Agreement.c. A significant change occurs to the property condition or value.d. There is evidence of fraud or misrepresentation.e. You file for bankruptcy and the Bankruptcy Court declines to approve the Agreement.f. Litigation is initiated or threatened that could affect title to the property or interfere with a valid conveyance.g. <i>[Insert only if applicable:]</i> You do not make the payments required under this Agreement. <p>13. Settlement of a Debt. The proposed transaction represents our attempt to reach a settlement of the delinquent mortgage. You are choosing to enter into this Agreement even though there is no guarantee that the transaction will be successful. In the event this transaction is unsuccessful, we may exercise our remedies under the mortgage, including foreclosure.</p> |
|--|

Signature of Servicer Representative

Title

Printed Name of Servicer Representative

Date

Paragraph 11: Mortgage Insurer or Guarantor Approval

Slide 3-45

If the loan has PMI this paragraph will be included. The private mortgage insurer must release the borrower from any claims.

Paragraph 12: Termination of this Agreement

Slide 3-46

The SSA can be terminated for numerous reasons. The licensee should review these with the seller (risk management issue).

Paragraph 13: Settlement of Debt

Slide 3-47

This paragraph states that the SSA is being entered into to settle the delinquent mortgage debt. There are no guarantees and the servicer retains all remedies under the mortgage.

Slide 3-48

Servicer's Signature and Date

Slide 3-49

The date the servicer signs the SSA is most likely the date from which the borrower has 14 days in which to respond. SD09-09R states that the "Effective Date" of the SSA is the date it is mailed. Keep the envelope with the post mark as evidence of the date the servicer mailed the SSA.

SSA Page 7: Program Agreement

Slide 3-50

Program Agreement			
Short Sale Agreement			
PLEASE READ THIS AGREEMENT CAREFULLY BEFORE YOU SIGN, BECAUSE IT AFFECTS YOUR LEGAL RIGHTS.			
Borrower Acknowledgement of Risks, Conditions and Contingencies. In signing and returning this Short Sale Agreement, I/we agree to all the stated terms and conditions.			
_____ Borrower Signature	_____ Date	_____ Co- Borrower Signature	_____ Date
_____ Printed Name		_____ Printed Name	

The Borrower's Signature

Exam Question 10

All parties who signed the original mortgage documents, or any amendments thereto, must sign the SSA. The exceptions are stated in SD 09-09R as follows:

Exam Question 25

"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 HAFAs 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 the HAFAs 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."

Note: This requirement is separate from the signatures that may be required to have a valid contract, which would almost certainly include all parties on title, whether they are signatories to the loan documents or not.

SSA Page 7 (cont'd.)

Slide 3-51

Acknowledgement by Listing Broker	
The undersigned listing broker (“Broker”) is not a party of the Short Sale Agreement (“Agreement”) above, but acknowledges that the Broker:	
<ol style="list-style-type: none"> 1. Has been retained by the borrower for the sale of the property. 2. Has reviewed the terms and conditions of the Agreement above. 3. Agrees that in the event of a conflict between the terms of the listing agreement and the terms agreed to by the borrower in the Agreement above, the listing agreement will be deemed amended to conform to the terms of the Agreement. 4. Acknowledges that pursuant to the Agreement, the Servicer will not review a sales contract unless a Request for Approval of Short Sale, attached as Exhibit A1, is completed. 	
_____	_____
Listing Broker Name	Listing Broker Signature
_____	_____
Address:	License #:
_____	_____
_____	Office Phone:
_____	_____
_____	Cell Phone:
_____	_____
Date:	E-mail Address:
_____	_____

Acknowledgment by Listing Broker

The property must be listed by the time the SSA is signed and returned to the servicer. As previously discussed, the licensee is probably wise to list the property from the date of first contact with the seller. The broker/agent also must agree that if there is a conflict between the listing agreement and the SSA, that the SSA prevails.

In most cases the broker will not be the person actually listing the property and working with the seller. The licensee who is working directly with the seller should include his or her license number and contact information.

Slide 3-52

Servicer Contact Information, HOPE Hotline Info and Fraud Notice to Borrower

<p>If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number].</p> <p>If you would like to speak with a counselor about this program, call the Homeowner’s HOPE™ Hotline 1-888-995-HOPE (4673). The Homeowner’s HOPE™ Hotline offers free HUD-certified counseling services and is available 24/7 in English and Spanish. Other languages are available by appointment.</p>	
<p>NOTICE TO BORROWER</p> <p>Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that:” Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct.”</p> <p>If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or www.sig tarp.gov. Mail can be sent Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.</p>	
	

Signing

Slide 3-53

The borrower and listing agent must sign and return the SSA within 14 calendar days of its "Effective Date" (per SD09-09R the date the SSA is mailed by the servicer) along with a copy of the listing agreement and subordinate lien information. Licensees should realize that time is of the essence and if the terms of the SSA are satisfactory to the seller mail it back immediately (risk management issue).

MODULE 4. THE RASS AND ALTERNATIVE RASS

Slide 4-1

The RASS-Detailed Discussion

Slide 4-2

The RASS (Request for Approval of Short Sale) is sent to the borrower at the time the SSA is delivered to the borrower. The SSA is signed and returned to the servicer and the RASS is held by the seller until a purchase agreement is entered into by a buyer and the seller. At that point the RASS must be completed and sent to the servicer along with the purchase agreement and all supporting documents.

The RASS is a four-page document including a cover letter. In this section we will look at the main points of the RASS.

RASS Cover Letter

Exhibit A1 – Request for Approval of Short Sale

HELP FOR AMERICA'S HOMEOWNERS.



[Name of Servicer] [Address of Servicer]	[Name of Borrower] [Name of Co-Borrower] [Address of Borrower]
[Loan #] [Servicer FAX] [Servicer Email]	[Borrower Phone] [Borrower Email]
[Date]	

RE: Request for Approval of Short Sale Pursuant to Agreement Dated [Date of SSA]

This is a Request for Approval of the Short Sale Pursuant to Agreement Dated [Date of SSA] between the above referenced Servicer ("Servicer") and the borrower and co-borrower ("Borrower" or "you"). Under penalty of perjury you certify that:

- 1) the sale of the property is an "arm's length" transaction, between parties who are unrelated and unaffiliated by family, marriage, or commercial enterprise;
- 2) there are no agreements or understandings between you and the Buyer that you will remain in the property as a tenant or later obtain title or ownership of the property;
- 3) neither you nor the Buyer will receive any funds or commissions from the sale of the property; and
- 4) there are no agreements or offers relating to the sale or subsequent sale of the property that have not been disclosed to the Servicer.

Please complete, sign and return the Terms of Sale on the following page.

Slide 4-3

The cover letter will be pre-populated with the information relating to the SSA that was submitted to the servicer.

The borrower certifies:

- The sale is an "Arm's Length" transaction.
- The seller has no agreement to lease back or buy back the property.
- Neither the seller nor buyer are receiving any money or commissions.
- There are no other agreements or offers for a subsequent sale that have not been disclosed to the servicer.

Slide 4-4

Items 1-3 are a reiteration of points made in the SSA. Item 4 requires further discussion.

The following is an excerpt from an article titled, "Emerging Fraud Trends; Short Payoff Fraud," on Freddie Mac's Web site. The entire article can be found at:
www.freddie.com/singlefamily/news/2010/0412_payoff_fraud.html.

Emerging Fraud Trends: Short Payoff Fraud

Slide 4-5

Given increased defaults and declining property values in certain locations, the mortgage industry is experiencing an increase in short payoffs, sometimes called short sales. In fact, over the last two years, short payoff volume at Freddie Mac has grown more than 1,000 percent (2007-2009). This upward trend in volume leaves the market ripe for incidences of short payoff fraud.

What is Short Payoff Fraud?

Slide 4-6

According to a member of Freddie Mac's Fraud Investigation Unit a slight variation of our general definition of mortgage fraud also defines short payoff fraud – "Any misrepresentation or deliberate omission of fact that would induce the lender, investor or insurer to agree to the terms of a short payoff that it would not approve had all facts been known." Misrepresentations in these schemes may include the buyer of the short payoff property, a subsequent transaction at a higher price, and/or the selling borrower's hardship reason used to qualify for the short payoff. In many instances, the short payoff fraud will involve a "facilitator,"

engaged by either the listing agent or the selling borrower, to assist with negotiating the transaction.

Slide 4-7

How is Short Payoff Fraud Committed?

There are many variations of short payoff fraud. The example below is just one way this type of mortgage fraud can occur.

- *A seller (delinquent borrower) owes \$100,000 on a property that is worth \$80,000.*
- *The short payoff facilitator negotiates with the bank to accept a \$70,000 offer to purchase the property. In several instances, Freddie Mac has seen that this offer will be made directly by the facilitator or through an entity under his/her control.*
- *The lender/investor accepts the offer for \$70,000.*
- *The facilitator neglects to disclose to the lender/investor that there is an outstanding offer between the facilitator and a second end-buyer for \$95,000.*
- *Both transactions close on the same day with the net difference being pocketed by the facilitator and increasing the lender/investor's net losses.*

At first glance, this may look like a legitimate short payoff. However, in this example, the fraud is the failure to disclose the second, higher offer. The facilitator is willfully withholding important information the same way a scam artist would, and the lender does not realize they are walking into a premeditated short payoff fraud scheme. Because the facilitator is deliberately withholding the higher offer, Freddie Mac also experiences a larger than necessary loss on this sale.

Slide 4-8

Look carefully at line 4 of the RASS. It states: *"there are no agreements or offers relating to the sale or subsequent sale of the property that have not been disclosed to the Servicer."*

Slide 4-9

The article above addresses flipping the property. But what about the situation in which an offer has been accepted by the seller, the RASS and contract have been submitted to the servicer and approval or disapproval is pending? If another offer is made which would net the investor a higher amount, it should probably be disclosed to the servicer.

Licenses must be aware of these possibilities and educate sellers and buyers about the dangers that exist. If a licensee is aware of any of these issues in a transaction and allows the transaction to proceed, the licensee could be considered to be aiding and abetting loan fraud.

RASS Page 2: Program Terms and Conditions

Slide 4-10

Terms of Sale [All blanks to be completed by Borrower]:	
1. Contract Sales Price	\$ _____
2. Less Total Allowable Closing Costs	\$ _____
a. Commissions	\$ _____
b. Settlement Escrow/Attorney Fees	\$ _____
c. Seller's Title and Escrow Fees	\$ _____
d. Subordinate Lien Payoff	\$ _____
e. Transfer taxes/stamps/recording fees	\$ _____
f. Real Property Taxes	\$ _____
g. Termite Inspection/Repair	\$ _____
h. Borrower Relocation Assistance	\$ 3,000
i. Other (attach explanation)	\$ _____
3. Net Proceeds to Servicer	\$ _____
4. Earnest Money Deposit	\$ _____
5. Down Payment	\$ _____
6. Closing Date:	_____
7. Approved Buyer(s):	_____
8. Settlement Agent:	_____
9. Settlement Agent's Address:	_____
10. Settlement Agent's Office Phone:	_____
11. Settlement Agent's Office Fax:	_____

Basically, this is a seller net sheet. The listing real estate licensee and seller must itemize the dollar amounts and other information. Notice that the \$3,000 "Borrower Relocation Assistance" is pre-populated. Some costs, for example taxes and tax proration, will vary depending on the closing date.

Slide 4-11

The subordinate lien payoff amounts should have been negotiated during the marketing period. If they haven't been determined, it must be done now. Remember, the RASS must be submitted within three business days of contract acceptance. Remember, the maximum amount any subordinate lien holder can receive is 6% of the principal balance up to a maximum of \$6,000 for all subordinate liens. Amounts in excess of these limits will cause the servicer to disapprove the sale.

What about a HUD-1?

Page 3 of the RASS requires a HUD-1 just prior to closing but the line, "2i. Other," asks for an attached explanation. The best explanation is a HUD-1 Settlement Statement prepared by a closing agent. Licensees should

Module 4. The RASS and Alternative RASS

consider attaching a professionally prepared, preliminary HUD-1 with the RASS with an emphasis that it is only preliminary.

RASS Page 2 (cont'd.)

As required by the Short Sale Agreement, copies of the following documents are attached:			
<input type="checkbox"/> Sales contract and all addenda			
<input type="checkbox"/> Buyer's documentation of funds or Buyer's pre-approval or commitment letter on letterhead from lender			
The Borrower represents that the information provided in this Request is true and accurate and authorizes the Servicer to disclose to the U.S. Department of the Treasury or other government agency, Fannie Mae and/or Freddie Mac any information provided in connection with the Making Home Affordable program.			
_____		_____	
Borrower Signature	Date	Co- Borrower Signature	Date
_____		_____	
Printed Name		Printed Name	

Slide 4-12

The sales contract and all addenda must accompany the RASS along with the buyer's proof of funds or commitment letter on lender letterhead. Make sure that the sales contract contains the required wording stated in the SSA relating to an "Arm's Length" sale and the 90-day prohibition against reselling the property.

RASS Page 3: Approval of Short Sale

Slide 4-13

Servicer Use Only



To be Completed by Your Servicer

Approval of Short Sale - The Servicer consents to this Request for Approval of Short Sale and agrees to accept all net proceeds from the settlement as full and final satisfaction of the first mortgage indebtedness on the referenced property. This agreement is subject to the following:

- A. **Terms** – The sale and closing comply with all terms and conditions of the Short Sale Agreement between the Servicer and the Borrower as well as all terms and representations provided herein by the Borrower.
- B. **Changes** – Any change to the terms and representations contained in this Request for Approval of Short Sale or the attached sales contract between you and the buyer must be approved by the Servicer in writing. The Servicer is under no obligation to approve such changes.
- C. **Subordinate Liens** – Prior to releasing any funds to holders of subordinate liens/mortgages, the closing agent must obtain a written commitment from the subordinate lien holder that it will release Borrower from all claims and liability relating to the subordinate lien in exchange for receiving the agreed upon payoff amount.
- D. **HUD-1** – A HUD-1 Settlement Statement, which will be signed by you and the buyer at closing, must be provided to the Servicer not later than one business day before the date indicated in Line 4, *Closing Date*.
- E. **Bankruptcy** – If you are currently in bankruptcy or you file bankruptcy prior to closing, you must obtain any required consent or approval of the Bankruptcy Court.
- F. **Tax Consequences** – A short payoff of the mortgage may have tax consequences. You are advised to contact a tax professional to determine the extent of tax liability, if any.
- G. **Credit Bureau Reporting** – We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over or responsibility for the impact of this report on your credit score. To learn more about the potential impact of a short sale on your credit you may want to go to <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm>.
- H. **Payment Instructions** – Payoff funds and a final HUD-1 Settlement Statement must be received by the Servicer within 48 hours of closing in accordance with the attached wiring instructions. *[include instructions]*
- I. **Closing Instructions** – *[include proprietary closing instructions, if any]*

This page will be sent by the servicer when the sale is approved. In it the servicer agrees to accept the proceeds as "...full and final satisfaction of the first mortgage..."

- A. **Terms:** Closing will comply with the terms of the SSA and the RASS.
- B. **Changes:** Changes in terms must be approved by the servicer.
- C. **Subordinate liens:** The subordinate lien holder(s) must provide a written commitment to release the borrower from all claims and liability related to the subordinate lien.
- D. **HUD-1:** Requires a HUD-1 be sent to the servicer no later than **1 business day prior to the closing date**.
- E. **Bankruptcy:** Court approval is needed.
- F. **Tax Consequences:** Relief of the debt may be taxable, but the Mortgage Forgiveness Debt Relief Act of 2007 which is in effect through 2012 exempts certain categories of forgiven debt from taxation. Early on in the transaction this should be discussed with the seller and consultation with a tax adviser recommended.

Module 4. The RASS and Alternative RASS

More information is available at:

www.irs.gov/newsroom/article/0,,id=174034,00.html.

- G. **Credit Bureau Reporting:** payoff will be reported as settled for less than the full amount.
- H. **Payment Instructions:** The servicer must receive the payoff funds and a final HUD-1 from the closing agent within 48 hours of closing.
- I. **Closing Instructions:** Include as needed.

RASS Page 4: Disapproval of Short Sale

Servicer Use Only		
<i>To be Completed by Your Servicer</i>		
Disapproval of Short Sale - The Servicer disapproves this Request for Approval of Short Sale, for the following reasons (check all applicable reasons):		
<input type="checkbox"/>	You did not comply with all terms and conditions of the Short Sale Agreement between Servicer and Borrower dated ____/____/____ as it relates to section/s: _____	
<input type="checkbox"/>	The Request for Approval of Short Sale was not complete and/or fully executed. <ul style="list-style-type: none"> <input type="checkbox"/> Failure to provide executed sales contract or addenda <input type="checkbox"/> Failure to provide buyer’s documentation of funds to close or buyer’s pre-approval or commitment letter on letterhead from lender 	
<input type="checkbox"/>	The net proceeds available to pay off the first mortgage loan are insufficient, due to: <ul style="list-style-type: none"> <input type="checkbox"/> Contract sales price is below list price stated in Short Sale Agreement <input type="checkbox"/> Net proceeds amount is less than acceptable net proceeds stated in Short Sale Agreement <input type="checkbox"/> Excessive financial concessions <input type="checkbox"/> Excessive commissions <input type="checkbox"/> Excessive closing costs <input type="checkbox"/> Excessive payments to subordinate liens/mortgages OR release of subordinate liens did not occur 	
<input type="checkbox"/>	The mortgage insurer did not approve the short sale.	
<input type="checkbox"/>	Other: _____	

Slide 4-14

This page is largely self-explanatory. Hopefully you never receive a notice of disapproval. It is likely that the servicer will submit a counter offer with the disapproval notice. If the sale is disapproved, determine if the cause can be remedied and resubmit with the required information.

Freddie Mac has divided the RASS into three forms: (1) the RASS, (2) an approval form, and (3) a disapproval form.

Exam Question 17

The Alt. RASS (Alternative Request for Approval of Short Sale)

Slide 4-15

Exam Question 5

Can a HAFAs short sale be effected if the seller receives an acceptable short sale offer but has not requested a HAFAs short sale or not been qualified for or offered an SSA? The answer is yes and the Alternative RASS is the form to use to submit for approval. The Alt. RASS combines many of the terms of the SSA with the RASS.

Slide 4-16

Fannie includes an Alt. RASS in its program. Freddie does not. With a Freddie Mac loan, if the sales contract is executed before the seller receives the SSA, a Freddie Mac short sale must be processed under their regular short sale program, not HAFAs.

Short Sale with the Seller not yet HAFAs Qualified

Slide 4-17

When a licensee who has listed a home receives a short sale offer from a buyer, the licensee should consult with the seller to discuss if the seller and property meet HAFAs eligibility criteria. If the seller is eligible a decision needs to be made as to whether or not to apply for a HAFAs short sale. The advantages (\$3,000 relocation allowance, full release of all liability from all liens, greater amounts to pay subordinate lien holders, etc.) and disadvantages (time needed to determine eligibility, approvable net proceeds, obtain approval and close and buyers not wanting to wait for approval, etc.) should be discussed.

The licensee's experience with different servicers and the quickness with which the specific servicer on this loan has closed non-HAFAs or HAFAs short sales is important. If a licensee has not had experience in these areas, he or she should consult with their broker.

Submitting the Alt. RASS

Slide 4-18

Some servicer's Web sites will have an ALT. RASS package available to be completed and submitted. With other servicers the seller may have to request the ALT. RASS package and wait to receive it.

The Alt. RASS—Detailed Discussion

Alt. RASS Cover Letter

Exhibit B – Alternative Request for Approval of Short Sale

HELP FOR AMERICA'S HOMEOWNERS.



[Name of Servicer] [Name of Borrower]
[Address of Servicer] [Name of Co-Borrower]
[Loan #] [Address of Borrower]
[Servicer FAX] [Borrower Phone]
[Servicer Email] [Borrower Email]

[Date]

RE: Request for Approval of Short Sale

You have taken an important step toward selling your home and avoiding foreclosure by participating in the federal government's **Home Affordable Foreclosure Alternatives** (HAFA) Program. This letter is a Request for Approval of a Short Sale and contains important information.

Read the following pages carefully and complete, sign and return the Terms and Conditions.

If you have not previously contacted us regarding eligibility for a loan modification, you should consider this alternative. Under the Home Affordable Modification Program (HAMP), you may qualify for a modification with affordable and sustainable monthly payments that would allow you to keep your home. Please contact us by [insert date 14 calendar days from date of this request] if you wish to be considered for a loan modification.

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

Sincerely,
[Servicer Name]

Slide 4-19

This cover letter is confusing in that it takes the form of a solicitation from the lender. Different servicers approach this in different ways. The bottom line is that when you have a purchase contract before a seller is qualified for HAFA go to the servicer's Web site and determine if they have an ALT. RASS submittal package.

Alt. RASS Page 2: Program Terms and Conditions

Slide 4-20

Program Terms And Conditions 

The borrower and co-borrower, if applicable (“Borrower” or “you”), of the above loan contacted the Servicer (“Servicer” or “we”) because your mortgage payments are no longer affordable and you would like to avoid foreclosure. After listing your house for sale, an offer was received. However, the sale may not be sufficient to pay off the loan. This is a Request for Approval of a Short Sale (“Request”) of the subject property, the net sale proceeds from which we agree to accept as the payoff of the mortgage loan even though the proceeds are expected to be less than the full amount due.

The first paragraph states that the borrower has received an offer and in asking for approval of the short sale.

Slide 4-21

Short Sale Program—Terms and Conditions of the Request are as follows:

1. **Allowable Costs that May be Deducted from Gross Sale Price**
 - a. **Closing Costs.** The closing costs paid by you or on your behalf as seller must be reasonable and customary for the market. [Choose one and delete unnecessary text.] [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed \$_____.] OR [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed ____% of the list price.] OR [Closing costs which may be deducted from the gross sale proceeds are limited to title search and escrow expenses usually paid by the seller; reasonable settlement escrow/attorney’s fees; transfer taxes and recording fees usually paid by the seller; termite inspection and treatment as required by law or custom; pro-rated real property taxes; and, negotiated real estate commissions not to exceed six percent (6%) of the contract sales price [add other closing costs that may be included].]
 - b. **Subordinate Liens.** We will allow up to six percent (6%) of the unpaid principal balance of each subordinate lien in order of priority, not to exceed a total of \$6,000, to be deducted from the gross sale proceeds to pay subordinate lien holders to release their liens. We require each subordinate lien holder to release you from personal liability for the loans in order for the sale to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.
 - c. **Real Estate Commissions.** We will allow to be paid from sale proceeds, real estate commissions as stated in the listing agreement between you and your broker, not to exceed six percent (6%) of the contract sales price, to be paid to the listing and selling brokers involved in the transaction. Neither you nor the buyer may receive a commission. Any commission that would otherwise be paid to you or the buyer must be reduced from the commission due on sale. [Optional text:] Please note: We have retained a vendor to assist your listing broker with the sale. The vendor and your listing broker will work together on your behalf to facilitate the sale process. [Choose one and delete unnecessary text.] [The vendor will be paid from sale proceeds [\$_____] OR [an amount equal to ____% of the sales price].] OR [The vendor will be paid by us outside of the sales transaction.]
 - d. **Borrower Relocation Assistance.** If the closing of the short sale occurs in accordance with this Agreement, you will be entitled to an incentive payment of \$3,000 to assist with relocation expenses. We will instruct the settlement agent to pay you from the sale proceeds at the same time that all other payments, including the payoff of our first mortgage, are disbursed by the settlement agent. Only one payment per household is provided for the relocation assistance, regardless of the number of borrowers.

Paragraph 1 a-d

This is the same information found in the SSA or RASS.

Module 4. The RASS and Alternative RASS

Alt. RASS Page 2 (bottom)

- 2. Property Maintenance and Expenses.** You are responsible for all property maintenance and expenses of your home until you convey your Property to us, including utilities, assessments, association dues, and costs for interior and exterior maintenance. Additionally, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses, we may require that they be applied to reduce the mortgage debt.

Alt. RASS Page 3 (top)

Program Terms And Conditions	
<ol style="list-style-type: none">4. Parties to the Sale. The Sales Contract must include the following clauses: "Seller and Buyer each represent that the sale is an "arm's length" transaction and the Seller and Buyer are unrelated to each other by family, marriage or commercial enterprise." "The Buyer agrees not to sell the property within 90 days of closing of this sale."5. Foreclosure Sale Suspension. We may initiate or continue the foreclosure process as permitted by the mortgage documents; however, we will suspend any foreclosure sale date until the expiration date of this Request or the date of closing of an approved short sale, whichever is later, provided that you abide by its terms and conditions.6. Satisfaction and Release of Liability. If all of the terms and conditions of this Request are met, upon sale and settlement of the property, we will prepare and send to the settlement agent for recording, a lien release in full satisfaction of the mortgage, foregoing all rights to pursue a deficiency judgment.7. [Insert only if applicable.] Mortgage Insurer or Guarantor Approval. The terms and conditions of the purchase contract are subject to the written approval of the mortgage insurer or guarantor.	

Paragraphs 2–7 are also contained in the SSA.

Alt. RASS Page 3—Center

- 8. Termination of This Request.** Unless otherwise agreed by the parties, this Request will terminate on *[insert date]* if the sale does not close. This Request may be terminated earlier if:
 - You fail to provide all the required documents listed above.
 - Your financial situation improves significantly, you qualify for a modification, you bring the account current or you pay off the mortgage in full.
 - You or your broker fails to act in good faith in closing on the sale of the property or otherwise fails to abide by the terms of this Request.
 - A significant change occurs to the property condition or value.
 - There is evidence of fraud or misrepresentation.
 - You file for bankruptcy and the Bankruptcy Court declines to approve the Request.
 - Litigation is initiated or threatened that could affect title to the property or interfere with a valid conveyance.
 - [Insert only if applicable:]* You do not make the payments required under this Request.
- 9. Settlement of a Debt.** The proposed transaction represents the Servicer's attempt to reach a settlement of the delinquent mortgage. You are choosing to enter into this transaction even though there is no guarantee that the transaction will be successful. In the event this transaction is unsuccessful, the Servicer may exercise all remedies under the mortgage, including foreclosure.

Paragraphs 8 and 9 are also contained in the SSA. The only difference is line 8a which calls for termination if the borrower fails to provide all required documents.

Alt. RASS Page 3 (center)

Under penalty of perjury, you certify that:

1. the sale of the property is an “arm’s-length” transaction, between parties who are unrelated and unaffiliated by family, marriage, or commercial enterprise;
2. there are no agreements or understandings between you and the Buyer that you will remain in the property as a tenant or later obtain title or ownership of the property;
3. neither you nor the Buyer will receive any funds or commissions from the sale of the property; and
4. there are no agreements or offers relating to the sale or subsequent sale of the property that have not been disclosed to the Servicer.

This same language is contained on page 1 of the RASS.

Alt. RASS Page 4

Slide 4-22

Program Terms And Conditions



Terms of Sale [All blanks to be completed by Borrower]:

1.	Contract Sales Price	\$	6. Closing Date:
2.	Less Total Allowable Closing Costs	\$	7. Approved Buyer(s):
	a. Commissions	\$	
	b. Settlement Escrow/Attorney Fees	\$	
	c. Seller’s Title and Escrow Fees	\$	8. Settlement Agent:
	d. Subordinate Lien Payoff	\$	
	e. Transfer taxes/stamps/recording fees	\$	
	f. Real Property Taxes	\$	9. Settlement Agent’s Address:
	g. Termite Inspection/Repair	\$	
	h. Borrower Relocation Assistance	\$ 3,000	
	i. Other (attach explanation)	\$	
3.	Net Proceeds to Servicer	\$	
4.	Earnest Money Deposit	\$	10. Settlement Agent’s Office Phone:
5.	Down Payment	\$	11. Settlement Agent’s Office Fax:

As required by the Short Sale Program, copies of the following documents are attached:

- Signed Request;
- Copy of a signed listing agreement with a real estate broker, if applicable;
- Executed copy of the sales contract and all addenda;
- Buyer’s documentation of funds or Buyer’s pre-approval or commitment letter on letterhead from a lender;
- Information about other liens secured by your home such as home-equity loans;
- [Insert only if applicable:] Completed and signed Hardship Affidavit form; and
- Servicer must have these documents no later than [insert date 14 calendar days from date of this request] or we will not be able to respond to this request. Please send us these documents at the following address: [insert servicer address].

The Borrower represents that the information provided in this Request is true and accurate and authorizes the Servicer to disclose to the U.S. Department of the Treasury or other government agency, Fannie Mae and/or Freddie Mac any information provided in connection with the Making Home Affordable program.

This page is similar to page 2 of the RASS but lists the documents and other information that must be submitted with this Alt. RASS. Check the servicer's Web site to determine all the documentation they require.

Note that the all the documentation must be submitted within 14 calendar days. That may or may not be acceptable to each specific servicer. Make sure your package is complete per the servicer's guidelines.

Alt. RASS Pages 5 and 6

Slide 4-23

These are the pages for Approval or Disapproval of the short sale by the servicer and are identical to those found in the RASS.

HAFAs General Terms and Conditions

Slide 4-24

Suspension of Foreclosure Sales

SD 09-09 states:

*"At the servicer's discretion, the servicer may initiate foreclosure or continue with an existing foreclosure proceeding during the HAFAs process, **but may not complete a foreclosure sale:***

- *While determining the borrower's eligibility and qualification for HAFAs.*
- *While awaiting the timely return of a fully executed SSA.*
- *During the term of a fully executed SSA.*
- *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 in the SSA or DIL Agreement. "*

Note: The foreclosure sale could possibly be completed very quickly after the expiration of the SSA.

Payment Forbearance

The servicer may require the borrower to make monthly payments (described in the Treasury document as Partial Mortgage Payments) during the marketing and closing period. The payment may not exceed 31% of the borrower's gross monthly income. Freddie Mac requires a payment of 31% of the borrower's gross income.

Slide 4-25

Release of the First Mortgage

The first mortgage servicer is required to release their lien within 30 business days of receipt of payoff. The investor must waive all rights to

Slide 4-26

any deficiency and cannot require the borrower to sign any promissory note for a deficiency.

Release of Subordinate Loans

Slide 4-27

Although servicers may negotiate with the subordinate lien holders directly, it is more likely that these negotiations will be handled by the licensee.

Each subordinate lien holder, in order of priority, may be paid no more than 6% of the unpaid principal balance of their loan, until the \$6,000 aggregate cap is reached. Payments will be made at closing from the gross sale proceeds and must be reflected on the HUD-1 Settlement Statement.

Slide 4-28

Prior to releasing any funds to subordinate lien holder(s), the servicer must obtain written commitment from the subordinate lien holder that it will release the borrower from all claims and liability relating to the subordinate lien.

The subordinate lien holder cannot require the seller or real estate agent to pay any money prior to, at or after closing as a condition of releasing the lien. The borrower may not use its \$3,000 moving cost incentive to increase the payment to the subordinate lien holder.

Borrower Fees

Slide 4-29

SD 09-09R states:

"Servicers may not charge the borrower any administrative processing fees in connection with HAFAs. The servicer must pay all out-of-pocket expenses, including but not limited to notary fees, recordation fees, release fees, title costs, property valuation fees, credit report fees, or other allowable and documented expenses...."

"Servicers may require borrowers to waive reimbursement of any remaining escrow, buy down funds or prepaid items, and assign any insurance proceeds to the investor, if applicable."

Slide 4-30

Mortgage Insurer Approval

If a loan has mortgage insurance, the MI company must approve the transaction and must waive any right to collect any cash or note from the borrower. This is often a sticking point in short sales, but MI companies

are realizing that a short sale often lessens the MI company's losses as compared to a foreclosure.

Some servicers along with Fannie Mae and Freddie Mac have received delegations of authority to approve short sales from some MI companies and are seeking them from others. With these delegations of authority, the servicer knows, up-front, the terms under which the MI provider will approve the short sale.

Note: There can be mortgage insurance on the first mortgage, with the monthly MI premium paid by the borrower on the second. On the second, the loss protection coverage premium is normally a one-time fee paid by the lender.

Incentives Available Through 2012

Slide 4-31

Borrower Relocation Assistance

At closing of a HAFA short sale the borrower will receive \$3,000 to assist in relocation. This must be paid from sale proceeds at the same time all other payments are distributed by the closing agent. The servicer will be fully reimbursed for this payment to the borrower.

Note: Any event, irrespective of how late in the short sale process it occurs, that disqualifies the transaction from HAFA will mean that no HAFA incentives, including the relocation allowance, will be paid.

Servicer Incentives

To cover administrative and processing costs of a short sale the servicer will be paid \$1,500, or \$2,200 in the case of a Fannie or Freddie mortgage. For a deed-in-lieu, the servicer incentive is \$1,500 regardless of which type of mortgage.

Investor Reimbursement for Subordinate Lien Releases

The subordinate lien holders can receive 6% of the lien balance up to a total aggregate amount of \$6,000. This reduces the first mortgage investor's proceeds. The first mortgage investor will be paid a maximum of \$2,000 for allowing a portion of the proceeds to be paid to subordinate lien holders. The reimbursement is paid on a one-for-three basis. For

each three dollars paid, up to \$6,000, the investor will be reimbursed one dollar up to a maximum of \$2,000.

Slide 4-32

Required Signatures

Fannie Mae is the HAFAs Program Administrator. Each servicer must report information to Fannie Mae at key milestones in the transaction. They are:

- Deceased borrowers
- A divorced borrower who has transferred his or her interest to the other spouse in the divorce decree
- Special situations will be evaluated on a case by case basis.

Slide 4-33

Reporting Requirements

Fannie Mae is the HAFAs Program Administrator. Each servicer must report information to Fannie Mae at key milestones in the transaction. They are:

- When the SSA is executed or updated.
- Closing of the short sale.
- When the SSA expires or is terminated.

Slide 4-34

Servicer Compliance

Freddie Mac is the compliance agent for HAFAs. Servicers are required to have adequate staff and resources to handle HAFAs transactions.

The e-mail address to which questions or complaints may be submitted is: ssdil@hmpadmin.com.

MODULE 5. FANNIE MAE AND FREDDIE MAC HAFA PROGRAMS

Slide 5-1

On June 1, 2010, both Fannie Mae and Freddie Mac announced that they would be implementing HAFA programs with a deadline for servicers of August 1, 2010. Their programs are modeled along the Treasury's HAFA program but have some significant differences from the Treasury's and from each other. One big difference is that Fannie and Freddie are the investors (they own or are liable for many of the mortgages) so they are the ultimate decision makers on many of their loans.

Slide 5-2

In this section of the course, we will compare and contrast Fannie and Freddie's programs to the Treasury's and to each other.

Eligibility

Slide 5-3

The Treasury's basic HAFA eligibility criteria are used by Fannie Mae and Freddie Mac. They are:

- Principal residence (exception for vacancies up to 90 days if borrower documents he or she was required to move at least 100 miles for employment and has not purchased a home in that period.)
- Current unpaid principal balance must be no greater than:
 - 1 Unit: \$729,750
 - 2 Units: \$934,200
 - 3 Units: \$1,129,250
 - 4 Units: \$1,403,400
- 1st position loans (first mortgage must be “short”)
- Originated on or before January 1, 2009
- Monthly payment on the first mortgage exceeds 31% of gross income
- Borrower has a financial hardship
- Borrower is delinquent or default is reasonably foreseeable. (Freddie Mac specifically states that the borrower must be more than 60 days delinquent.)

Time Frames

Slide 5-4

From the time that the SSA is delivered to the borrower the time frames for the transaction are basically the same as the Treasury's and are as follows:

SSA: returned to servicer within 14 calendar days of the date from the SSA letter (Fannie Mae) or within 14 calendar days from the effective date of the SSA (Freddie Mac).

Marketing time: 120 days minimum. Extensions are possible with written approval. Freddie Mac requires that extensions be requested at least 15 calendar days prior to the termination of the SSA.

RASS and contract submission to servicer: within 3 business days from seller's receipt of a fully executed sales contract.

Servicer approval or denial: within 10 business days from receipt of RASS and other required documentation by servicer.

Slide 5-5

Closing: Servicer cannot require closing sooner than 45 days. Fannie Mae and Freddie Mac require closing no later than 60 days after approval by servicer. Extensions are possible with special permission.

Slide 5-6

Servicer Reimbursement: On Fannie Mae and Freddie Mac transactions, the servicer is reimbursed \$2,200 for a short sale as opposed to \$1,500 under Treasury's program.

Standard Documents

Slide 5-7

Fannie Mae has created a HAFAs solicitation letter Form 183. This letter offers the borrower the opportunity to qualify for a short sale or deed-in-lieu of foreclosure. It provides a brief explanation of a short sale and deed-in-lieu, and includes a page with which the borrower may respond to the solicitation.

Fannie Mae and Freddie Mac use forms that are based on the Treasury's: SSA, RASS. Fannie uses an Alt. RASS based on the Treasury form, but Freddie does not permit use of the Alt. RASS. They give these forms their own numbers as follows:

SSA = Fannie Mae Form 184

SSA = Freddie Mac Form 1135

The Fannie Mae SSA form is similar to the Treasury's SSA but the information is presented in a different order and there are some significant differences that are discussed in the following pages.

Freddie Mac's SSA form is identical to the Treasury's form

RASS = Fannie Mae Form 184A

RASS = Freddie Mac Forms 1136, 1137 (Approval of Short Sale), and 1138 (Disapproval of Short Sale)

Freddie has assigned different form numbers to forms for approving and disapproving a RASS. Fannie Mae's and Freddie Mac's RASS forms are virtually identical to the Treasury's RASS.

Alt. RASS = Fannie Mae Form 185

Fannie Mae's Alt. RASS is also very similar to the Treasury's.

Freddie Mac does not have an Alt. RASS form. This will be discussed later in this course.

The Fannie Mae HAFA Program

The guiding document for the Fannie Mae HAFA program is Announcement SVC-2010-07. This 22-page announcement can be found at www.efanniemae.com/sf/servicing/hafa.

Slide 5-8

Slide 5-9

Do All Fannie Mae Loans Qualify for Fannie Mae's HAFA Program?

SVC-2010-07 states:

"All servicers must implement Fannie Mae's HAFA for all conventional mortgage loans that are held in Fannie Mae's portfolio, that are part of an MBS pool that has the special servicing option, or that are part of a shared-risk MBS pool for which Fannie Mae markets the acquired property.

Translated, this means that if Fannie Mae has all the risk of loss on a loan, the servicer must follow the Fannie Mae HAFA program guidelines.

SVC-2010-07 also states:

*"Servicers are **encouraged** to offer HAFAs for eligible mortgage loans that are part of a regular servicing option MBS pool or part of a shared-risk special servicing option MBS pool for which the servicer's shared risk liability has not expired. If a servicer decides to use HAFAs for such mortgage loans, the servicer must follow the Treasury's HAFAs Program..."*

Translated, this means that if Fannie Mae does not have the risk of loss on a loan, the servicer is encouraged to offer HAFAs but must follow the Treasury's HAFAs program.

Bottom line: licensees should assist the seller in applying to the servicer if a HAFAs short sale is indicated and let the servicer determine which program is used.

Foreclosure Sale Less Than 60 Days Out? Special Written Permission Required

Slide 5-10

The servicer must get Fannie Mae's written permission to consider a borrower for HAFAs if:

- a foreclosure sale is scheduled to be held within 60 days of the borrower's request for a Fannie Mae HAFAs short sale or a determination the borrower is ineligible for HAMP.
- a foreclosure proceeding could be initiated and reasonably be expected to result in a foreclosure sale being held within 60 days of the borrower's request for a Fannie Mae HAFAs short sale or a determination the borrower is ineligible for HAMP.
- the mortgage loan is secured by a property in Florida on which foreclosure proceedings are pending, judgment has been obtained, or a hearing on summary judgment or trial is scheduled within 60 days.

Borrower's Financial Condition

Slide 5-11

If a servicer or mortgage insurer determines that a borrower can contribute meaningfully to reducing the potential loss, **the borrower is not eligible for a Fannie Mae HAFAs short sale.** The borrower is ineligible if the borrower has:

Module 5. Fannie Mae and Freddie Mac HAFA Programs

- The ability to continue making the mortgage payments but chooses not to do so; or
- High surplus income; or
- Substantial unencumbered assets or significant cash reserves equal to or exceeding three times the borrower's total monthly mortgage payment (including tax and insurance payments) or \$5,000, whichever is greater.

Exam Question 23

For example:

Borrower's monthly payment: $\$1,500 \times 3 = \$4,500$.
The borrower liquid assets cannot exceed \$5,000.

Slide 5-12

Borrower's monthly payment: $\$2,200 \times 3 = \$6,600$.
The borrower's liquid assets cannot exceed \$6,600.

Freddie Mac's HAFA program deems a borrower ineligible for HAFA using these same unencumbered assets or significant cash reserves requirements as Fannie Mae.

The Treasury HAFA program does not utilize these specific guidelines but allows the servicer to establish guidelines consistent with investor policies.

Fannie Mae SSA (Form 184)

Slide 5-13

The Fannie Mae SSA is similar to the Treasury's form but the information is set up in a different order. The following sections of the Fannie Mae SSA are those that are substantially different from the Treasury's SSA.

Fannie Mae SSA (Form 184) Page 2: Deed-in-Lieu of Foreclosure

Slide 5-14

Deed-In-Lieu of Foreclosure—If you are unable to sell your Property within the agreed-upon period, you may still be eligible for a deed-in-lieu of foreclosure. With a deed-in-lieu of foreclosure, you voluntarily transfer ownership of the Property to your lender to satisfy your Loan obligation. Benefits to you may include:

- Avoiding foreclosure
- Satisfying the outstanding balance on your Loan
- Receiving a cash payment in the amount of \$3,000 to use toward moving or other expenses
- Qualifying to lease the Property from the lender at a below market rate rental for up to 6 months with a possibility of extending the lease for an additional 12 months at market rate rental

Slide 5-15

Fannie Mae's Deed-in-Lieu (DIL) program allows the borrower to lease the property back from Fannie Mae after the DIL. This program is called

Deed for Lease (D4L). This program allows the borrower to lease the property from Fannie Mae at a below market rate for 6 months or more up to a total of 18 months. Information on the D4L program can be found at www.efanniemae.com/sf/servicing/d4l/.

Licenseses should be aware of the D4L program as it is another option for a homeowner who wants to stay in their home.

Fannie Mae SSA (Form 184) Page 3: List Price

Slide 5-16

3. **List Price.** You agree to list the Property in "as is" condition for [dollar amount]. We are not responsible for the accuracy of the list price and have no responsibility to you in the event the Property is not sold. We may require you to adjust the list price or other offer terms.

The Treasury's SSA (below) allows the servicer to state a list price or minimum acceptable net proceeds (MANP). Fannie Mae will not allow the MANP to be divulged (but since the allowable closing costs are known, you have a good idea).

The screenshot shows a document titled "Program Terms And Conditions" with the Fannie Mae logo and tagline "MAKING HOME AFFORDABLE". Below the title, it says "Short Sale Agreement Terms and Conditions". A black box highlights the text "Treasury SSA Form". The first item in the list is: "1. **List Price or Acceptable Sale Proceeds.** [Choose one and delete unnecessary text.] [You agree to list the property in "as is" condition for [dollar amount].] OR [We will accept a sales contract where the proceeds from the sale, less the expenses stated in paragraph 5. Allowable Costs, nets [dollar amount].] We are not responsible for the accuracy of the list price and have no responsibility to you in the event the property is not sold. We may require you to adjust the list price or other offer terms.

Slide 5-17

How Fannie Mae Determines Price and MANP

Fannie Mae will require the servicer to obtain a recent (90 days or newer) Broker Price Opinion (BPO) or appraisal. Fannie Mae has a network of vendors that all servicers must use for obtaining BPOs and appraisals. The vendor list is available on www.efanniemae.com. Servicers must utilize a vendor from Fannie Mae's network to obtain a BPO or appraisal in connection with the evaluation of a HAFAs short sale or DIL. Licenseses who perform BPOs may want to check this Fannie Mae approved vendor list to determine if the licensee is eligible to perform BPOs for them.

SVC-2010-07 states:

"Fannie Mae expects that a servicer will develop a process for determining a sales price based on the current market conditions of the property location so as to facilitate a sale within the specified marketing period. The servicer must establish a list price that is greater than the MANP."

MANP (Minimum Acceptable Net Proceeds)

The MANP is the dollar amount to be used by the servicer to establish a list price that is reflective of current market conditions. It must reflect, of course, the acceptable closing costs.

SVC-2010-07 states:

*"Prior to execution of the HAFA Short Sale Agreement (or approval of a sales contract if no HAFA Short Sale Agreement is executed), the servicer must document Fannie Mae's MANP in the servicing file. The servicer must not increase the MANP requirement following execution of the HAFA Short Sale Agreement. **The MANP must be kept confidential and must not be shared with interested parties to the transaction (for example, the buyer, seller, or real estate agents).**"*

In the Treasury's HAFA program there is no requirement that the MANP be kept confidential, though the investor who owns the loan may have such a requirement.

Commissions and Allowable Transaction Costs

Slide 5-18

Fannie Mae allows commissions as specified in the listing agreement, up to 6%. As stated in SVA-2010-07:

"The servicer may not require that the commission be reduced to less than 6 percent of the sales price of the property."

The Treasury's program allows the servicer to negotiate the commission, based on what it thinks is reasonable and customary for the market, up to 6%.

Commissions and 3rd Party Fees

Fannie Mae allows other typical transaction costs to be paid from the sales proceeds. However, while the Treasury allows third party vendors to be paid, **Fannie Mae will not allow "short sale negotiation fees" to be paid** from proceeds or charged to the borrower. SVC-2010-07 states:

Exam Question 26

*"Fees paid to a third party to negotiate a short sale with the servicer (commonly referred to as 'short sale negotiation fees' or 'short sale processing fees') **must not be deducted** from the sales proceeds or charged to the borrower. Additionally, the servicer, its agents, or any outsourcing firm it employs must not charge (either directly or indirectly) any outsourcing fee, short sale negotiation fee, or similar fee in connection with any Fannie Mae loan."*

See also paragraph 7.c. of the SSA:

Fannie Mae SSA (Form 184) Page 4, paragraph 7.c.: Real Estate Commissions

c. Real Estate Commissions. We will allow real estate commissions as stated in the listing agreement between you and your broker, not to exceed six percent (6%) of the contract sales price, to be paid from the gross sale proceeds to the listing and selling brokers involved in the transaction. Neither you nor the buyer may receive a commission. Any commission that would otherwise be paid to you or the buyer must be reduced from the commission due on sale. Fees of a third party to negotiate a short sale with the servicer (commonly referred to as "short sale negotiation fees" or "short sale processing fees") may not be paid from the sales proceeds.

Slide 5-19

Other Differences Between Fannie Mae's and the Treasury's HAFAs Program

Listing Agent and Servicer Duties

Fannie Mae HAFAs guidelines specify that the servicer and listing agent must be in regular communication with each other. According to SVA-2010-07, the servicer must at least:

- Establish a list price that reflects current market conditions to facilitate a sale within the specified marketing period
- Ensure the listing agent's marketing plan includes appropriate methods for property exposure, including a "For Sale" sign, Multiple Listing Service(s), flyers, print ads, open houses as well as appropriate usage of the internet
- Obtain monthly feedback from the listing agent through a statistical and narrative marketing update (providing, at a minimum, the number of showings and prospective buyer feedback on price and property condition)
- Obtain monthly geographical comparables from the listing agent to determine whether the local market conditions have changed
- Make adjustments to the list price as necessary (within the limits of the pre-established MANP).
- Review each sales contract in detail to verify that the contract sales price and terms comply with the HAFAs Short Sale Agreement and this Announcement;

Slide 5-20

Module 5. Fannie Mae and Freddie Mac HAFA Programs

- Work with the title company to resolve any issues that may delay the closing;
- Provide instructions to the title company regarding closing of the transaction in compliance with the HAFA Short Sale Agreement;
- Review the HUD-1 Settlement Statement for accuracy within 48 hours of closing; and
- Ensure the sales proceeds are received on a timely basis.

Although not specifically required in Treasury HAFA short sales, listing agents should be prepared to provide this information and perform these services for all HAFA short sales.

Freddie Mac's HAFA Program

Slide 5-21

The guiding document for the Freddie Mac HAFA program is the Freddie Mac Single-Family Seller/Servicer Guide Chapter D65. This and other Freddie Mac Seller/Servicer Guides can be found by clicking the AllRegs link on Freddie Mac's Web site at: www.freddiemac.com/sell/guide/.

Slide 5-22

In most ways, Freddie Mac's HAFA program is the same or very similar to the Treasury's and Fannie Mae's. The one glaring difference is that the **Freddie Mac program does not include the Alternative RASS process** for seller/borrowers who receive a short sale offer on their home prior to execution of an SSA.

Exam Question 24

Guide Chapter D65.5(g) states:

"HAFA Short Sale request received, but Borrower not previously evaluated for HAMP. If the Borrower has an executed sales contract that would result in a short payoff of the Mortgage and requests that the Servicer approve a HAFA Short Sale before an SSA has been executed, then the Servicer must inform the Borrower that he or she will be considered for a B65 Short Payoff instead of a HAFA Short Sale. The Servicer must clearly communicate to the Borrower that he or she would not be entitled to any incentives under a B65 Short Payoff. The Servicer must then process the sales contract in accordance with Sections B65.35 through B65.41 before the sales contract expires."

Slide 5-23

A B65 short payoff is Freddie Mac's non-HAFA short sale. Under this program the seller will not receive any relocation incentive payment and

may be required to pay cash into the transaction or sign a note. Information on this program can be found by clicking the AllRegs link at: www.freddie.com/sell/guide/.

Slide 5-24

Required Monthly Payments

The Treasury's and Fannie Mae's programs may require the borrower to make a monthly payment not to exceed 31% of the borrower's gross monthly income. Both these programs state that the borrower's failure to make the monthly payment, if required, is grounds for termination of the SSA.

According to Guide Chapter D65.5(a)iii the Freddie Mac borrower **will be required** to make a monthly payment equal to 31% of the borrower's gross monthly income. However, Freddie Mac's Guide Chapter D65.5(c) states:

"The Borrower's failure to make monthly payments on the Mortgage during the marketing period under the SSA is not a cause for termination, unless it is accompanied by another breach of the SSA."

Slide 5-25

The Real Estate Professional's Role

A real estate professional's job is to assist the client in achieving the most favorable outcome possible, which may or may not be a HAFAs short sale. A basic understanding of the HAFAs programs is essential in order to accomplish this goal. Understanding all the details contained in the Supplemental Directives, Announcements, Bulletins and Servicing Guides is a good idea but many licensees may find them mind boggling.

Once the short sale has been requested, the ball bounces back and forth between the servicer and the seller (and licensee). If questions or contradictions arise, the licensee can refer to the appropriate document for clarification and address them with the servicer.

Exam Question 30

The HAFAs programs will be in existence until December 31, 2012. As time goes on these programs will become more familiar to licensees, some of the bumps will be smoothed out and more sellers will be able to move on with their lives.

Slide 5-26

The Workflow may be straight and fast, it might have a few curves or have many twists and turns. The pages that follow may be helpful to summarize how to proceed with a HAFAs short sale in various situations.

RESOURCES: HAFA WORKFLOW—SSA AND RASS

Slide 5-27

Situation #1: Non-HAFA Transactions in Progress

Slide 5-28

U.S. Treasury and Fannie Mae Loans

In transactions in which a short sale purchase agreement has been executed between a buyer and seller, before execution of a SSA, the servicer may offer the borrower the opportunity to qualify for HAFA. If HAFA is offered, it is the seller's decision to proceed. Should the seller choose to try to qualify for a HAFA short sale, the transaction will be delayed pending eligibility determination and approval or disapproval.

Freddie Mac Loans

Since Freddie Mac does not have an Alt. RASS, the transaction will not qualify for HAFA. Agents should consult with the homeowner on this issue before submitting an offer on a Freddie Mac loan.

Slide 5-29

Situation #2: Property Is Currently Listed

Slide 5-30

If a property is currently listed, the licensee should consider discussing HAFA with the seller. If the seller decides to try to qualify for HAFA consideration, follow the steps outlined in Situation #3 below.

Situation #3: Listing a Property

Slide 5-31

Forms: Short Sale Agreement (SSA) and Request for Approval of Short Sale (RASS)

Step 1: Eligibility

Is seller/borrower already enrolled in HAMP and eligible? Yes No

If not, all of the following criteria must be met:

- Personal residence (1–4 family unit)
- 1st mortgage originated on or before 1-1-2009
- \$729,750 balance or less (SFR)
- Financial hardship
- Delinquent or default reasonably foreseeable (if Freddie Mac loan borrower must be at least 60 days delinquent)
- Monthly payment exceeds 31% of gross income

Step 2: Request a Short Sale

This can be done verbally or in writing. Do it in writing!

Go to the servicer's Web site or call the servicer and use their forms, if available. A list of servicers who participate in HAFAs at: www.makinghomeaffordable.gov/contact_servicer.html.

If the borrower is not already in HAMP the servicer will require the borrower to complete numerous short sale forms including a Request for Modification and Affidavit (RMA) or similar document and provide evidence that the borrower meets the 31% income eligibility requirement. The servicer probably has its own forms. Use their forms. To verify income eligibility the servicer may also require a copy of the borrower's tax return using IRS Form 4506T or 4506EZ.

Step 3: Servicer Evaluation (30 Days)

The servicer must evaluate the borrower's eligibility for a HAFAs short sale. The evaluation may include a comparison of the expected recovery through a foreclosure and REO sale, property valuation and title review. If the borrower is not eligible or the servicer decides not to extend a short sale to the borrower in accordance with its written guidelines, the servicer must notify the borrower, explain the reasons for denial and provide a toll free phone number that the borrower may call to get questions answered.

Step 4: Short Sale or Loan Modification (14 days)

If borrower is eligible, the borrower may be offered a loan modification. The borrower has 14 days from receipt of this offer to accept or reject the modification. The borrower may reject the modification offer and request to proceed with the short sale. The property must be listed with a real estate agent in order to proceed with the short sale.

Step 5: Pre-Approved Short Sale Agreement (SSA)

The servicer is required to determine a MANP (Minimum Acceptable Net Proceeds) and an acceptable list price. The servicer sends the borrower a Short Sale Agreement (SSA) and Request for Short Sale (RASS). The SSA will state the acceptable price or net proceeds and the other terms and conditions under which the servicer will approve a short sale. At this time the property must be listed with a real estate broker in order to proceed with the short sale.

The SSA is signed by the seller and licensee and returned to the servicer within 14 calendar days from the effective date of the SSA. The RASS is retained and will be submitted when the seller accepts an offer from a buyer.

Step 6: Marketing

The agent has a minimum of 120 days to market the property. This can be extended for up to a total of 12 months. Extensions should be requested at least 15 days in advance of expiration of the 120 days marketing period.

Step 7: Purchase Agreement and RASS (3 business days)

Once an offer has been accepted by the seller, the agent has 3 business days to submit the following to the servicer:

- The executed sales contract, all addenda and the RASS
- The buyer's proof of funds or loan commitment letter or pre-approval on the buyer's lender's letterhead

All information regarding the status of subordinate liens and/or negotiations with subordinate lien holders

Step 8: Approval or Disapproval of Sale (10 business days)

The servicer's approval is required within 10 business days of receipt of the RASS if the net proceeds meet or exceed the minimum net and other conditions in the SSA. If the agreement is disapproved the servicer will probably extend a counter proposal. Freddie Mac requires the servicer to include a counter offer. Fannie Mae encourages the servicer to counter.

Step 9: Closing

Closing can take place as soon as possible.

In all HAFAs transactions, the servicer cannot require the closing to take place sooner than 45 calendar days from the date of the sales contract.

In Fannie Mae transactions, the closing must take place within 60 days after the contract is executed or approval of the RASS, whichever occurs later. Extensions require Fannie Mae's permission.

In Freddie Mac transactions, closing must take place within 60 days after the contract is executed unless Freddie Mac consents to a longer closing period.

RESOURCES: HAFA WORKFLOW—ALT. RASS

Situation #4: Purchase Contract Accepted But Seller Not Pre-Approved

Forms: Alternative Request for Approval of Short Sale (alternative RASS)

*Note: Not available for Freddie Mac HAFA Transactions

Step 1: Eligibility

Determine if seller may be eligible for HAFA

- Personal residence (1–4 family unit)
- 1st mortgage originated on or before 1-1-2009
- \$729,750 balance or less (SFR)
- Financial hardship
- Delinquent or default reasonably foreseeable (if Freddie Mac loan borrower must be at least 60 days delinquent)
- Monthly payment exceeds 31% of gross income

Step 2: Purchase Agreement and Alternative RASS

If the seller appears to be eligible and accepts an offer, the seller must complete the Alternative RASS and submit the following to the servicer:

- The executed sales contract, all addenda, and Alt RASS
- Listing agreement
- The buyer's proof of funds or loan commitment letter or pre-approval on the lender's letterhead

- All information regarding the status of subordinate liens and/or negotiations with subordinate lien holders

Go to the servicer's Web site or call the servicer and use their forms, if available. A list of servicers who participate in HAFAs at: www.makinghomeaffordable.gov/contact_servicer.html.

Since the borrower is not already in HAMP the servicer will require the borrower to complete numerous short sale forms including a Request for Modification and Affidavit (RMA) or similar document and provide evidence that the borrower meets the 31% income eligibility requirement. The servicer probably has its own forms. Use their forms. To verify income eligibility the servicer may also require a copy of the borrower's tax return using IRS Form 4506T or 4506EZ.

Step 3: Servicer Evaluation (30 Days)

Since no SSA was executed, there are no specific timelines for evaluation and approval or disapproval.

Step 4: Approval or Disapproval of Sale

Because there was no SSA entered into previously, the servicer will evaluate the Alternative RASS based on the same criteria used to pre-approve a short sale with a SSA. The evaluation may include a comparison of the expected recovery through a foreclosure and REO sale, property valuation and title review. If the servicer decides not to approve the short sale, the servicer must notify the borrower, explain the reasons for denial and provide a toll free phone number that the borrower may call to get questions answered.

If the borrower is eligible for a HAFAs short sale but the terms are not acceptable, the servicer is likely to present a counter offer with the disapproval notice. Freddie Mac requires the servicer to include a counter offer. Fannie Mae encourages the servicer to counter.

Step 5: Closing

If approved, closing can take place as soon as possible.

Resources

In all HAFA transactions, the servicer cannot require the closing to take place sooner than 45 calendar days from the date of the sales contract.

In Fannie Mae and Freddie Mac transactions, the closing must take place within 60 days after the contract is executed or approval of the RASS, whichever occurs later.

WEB SITES

- www.makinghomeaffordable.gov

Primary source for information on HAFA and HAMP

- www.makinghomeaffordable.gov/contact_servicer.html

List of Servicers involved in HAFA

- www.HMPadmin.com

Administrative Web site for servicers involved in HAFA and HAMP

- www.efanniemae.com

Fannie Mae's Web site

- www.FreddieMac.com

Freddie Mac's Web site

- www.Realtor.org

REALTOR® Web site with an abundance of short sale information.

- <http://link.brightcove.com/services/player/bcpid74425227001>

REALTOR® HAFA Video, April 2010

- ssdil@hmpadmin.com

E-mail address for asking questions and reporting problems.

**Making Home Affordable Program
Request For Modification and Affidavit (RMA)**



REQUEST FOR MODIFICATION AND AFFIDAVIT (RMA) page 1

COMPLETE ALL THREE PAGES OF THIS FORM

▶ Loan I.D. Number _____

▶ Servicer _____

BORROWER	CO-BORROWER
Borrower's name	Co-borrower's name
Social Security number Date of birth	Social Security number Date of birth
Home phone number with area code	Home phone number with area code
Cell or work number with area code	Cell or work number with area code

I want to:	<input type="checkbox"/> Keep the Property	<input type="checkbox"/> Sell the Property
The property is my:	<input type="checkbox"/> Primary Residence	<input type="checkbox"/> Second Home <input type="checkbox"/> Investment
The property is:	<input type="checkbox"/> Owner Occupied	<input type="checkbox"/> Renter Occupied <input type="checkbox"/> Vacant

Mailing address _____

Property address (if same as mailing address, just write same) _____ E-mail address _____

<p>Is the property listed for sale? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Have you received an offer on the property? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Date of offer _____ Amount of offer \$ _____</p> <p>Agent's Name: _____</p> <p>Agent's Phone Number: _____</p> <p>For Sale by Owner? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Have you contacted a credit-counseling agency for help <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please complete the following:</p> <p>Counselor's Name: _____</p> <p>Agency Name: _____</p> <p>Counselor's Phone Number: _____</p> <p>Counselor's E-mail: _____</p>
--	---

<p>Who pays the real estate tax bill on your property?</p> <p><input type="checkbox"/> I do <input type="checkbox"/> Lender does <input type="checkbox"/> Paid by condo or HOA</p> <p>Are the taxes current? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Condominium or HOA Fees <input type="checkbox"/> Yes <input type="checkbox"/> No \$ _____</p> <p>Paid to: _____</p>	<p>Who pays the hazard insurance premium for your property?</p> <p><input type="checkbox"/> I do <input type="checkbox"/> Lender does <input type="checkbox"/> Paid by Condo or HOA</p> <p>Is the policy current? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Name of Insurance Co.: _____</p> <p>Insurance Co. Tel #: _____</p>
---	--

Have you filed for bankruptcy? Yes No If yes: Chapter 7 Chapter 13 **Filing Date:** _____

Has your bankruptcy been discharged? Yes No **Bankruptcy case number** _____

Additional Liens/Mortgages or Judgments on this property:

Lien Holder's Name/Servicer	Balance	Contact Number	Loan Number

HARDSHIP AFFIDAVIT

**I (We) am/are requesting review under the Making Home Affordable program.
I am having difficulty making my monthly payment because of financial difficulties created by (check all that apply):**

<input type="checkbox"/> My household income has been reduced. For example: unemployment, underemployment, reduced pay or hours, decline in business earnings, death, disability or divorce of a borrower or co-borrower.	<input type="checkbox"/> My monthly debt payments are excessive and I am overextended with my creditors. Debt includes credit cards, home equity or other debt.
<input type="checkbox"/> My expenses have increased. For example: monthly mortgage payment reset, high medical or health care costs, uninsured losses, increased utilities or property taxes.	<input type="checkbox"/> My cash reserves, including all liquid assets, are insufficient to maintain my current mortgage payment and cover basic living expenses at the same time.

Other: _____

Explanation (continue on back of page 3 if necessary): _____

INCOME/EXPENSES FOR HOUSEHOLD¹

Number of People in Household:

Monthly Household Income		Monthly Household Expenses/Debt		Household Assets	
Monthly Gross Wages	\$	First Mortgage Payment	\$	Checking Account(s)	\$
Overtime	\$	Second Mortgage Payment	\$	Checking Account(s)	\$
Child Support / Alimony / Separation ²	\$	Insurance	\$	Savings/ Money Market	\$
Social Security/SSDI	\$	Property Taxes	\$	CDs	\$
Other monthly income from pensions, annuities or retirement plans	\$	Credit Cards / Installment Loan(s) (total minimum payment per month)	\$	Stocks / Bonds	\$
Tips, commissions, bonus and self-employed income	\$	Alimony, child support payments	\$	Other Cash on Hand	\$
Rents Received	\$	Net Rental Expenses	\$	Other Real Estate (estimated value)	\$
Unemployment Income	\$	HOA/Condo Fees/Property Maintenance	\$	Other _____	\$
Food Stamps/Welfare	\$	Car Payments	\$	Other _____	\$
Other (investment income, royalties, interest, dividends etc.)	\$	Other _____	\$	Do not include the value of life insurance or retirement plans when calculating assets (401k, pension funds, annuities, IRAs, Keogh plans, etc.)	
Total (Gross Income)	\$	Total Debt/Expenses	\$	Total Assets	\$

INCOME MUST BE DOCUMENTED

¹Include combined income and expenses from the borrower and co-borrower (if any). If you include income and expenses from a household member who is not a borrower, please specify using the back of this form if necessary.

²You are not required to disclose Child Support, Alimony or Separation Maintenance income, unless you choose to have it considered by your servicer.

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the federal government in order to monitor compliance with federal statutes that prohibit discrimination in housing. **You are not required to furnish this information, but are encouraged to do so. The law provides that a lender or servicer may not discriminate either on the basis of this information, or on whether you choose to furnish it.** If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, the lender or servicer is required to note the information on the basis of visual observation or surname if you have made this request for a loan modification in person. **If you do not wish to furnish the information, please check the box below.**

BORROWER <input type="checkbox"/> I do not wish to furnish this information	CO-BORROWER <input type="checkbox"/> I do not wish to furnish this information
Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino
Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White
Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male	Sex: <input type="checkbox"/> Female <input type="checkbox"/> Male

To be completed by interviewer

This request was taken by: <input type="checkbox"/> Face-to-face interview <input type="checkbox"/> Mail <input type="checkbox"/> Telephone <input type="checkbox"/> Internet	<i>Interviewer's Name (print or type) & ID Number</i>	<i>Name/Address of Interviewer's Employer</i>
	<i>Interviewer's Signature Date</i>	
	<i>Interviewer's Phone Number (include area code)</i>	

ACKNOWLEDGEMENT AND AGREEMENT

In making this request for consideration under the Making Home Affordable Program, I certify under penalty of perjury:

1. That all of the information in this document is truthful and the event(s) identified on page 1 is/are the reason that I need to request a modification of the terms of my mortgage loan, short sale or deed-in-lieu of foreclosure.
2. I understand that the Servicer, the U.S. Department of the Treasury, or their agents may investigate the accuracy of my statements and may require me to provide supporting documentation. I also understand that knowingly submitting false information may violate Federal law.
3. I understand the Servicer will pull a current credit report on all borrowers obligated on the Note.
4. I understand that if I have intentionally defaulted on my existing mortgage, engaged in fraud or misrepresented any fact(s) in connection with this document, the Servicer may cancel any Agreement under Making Home Affordable and may pursue foreclosure on my home.
5. That: my property is owner-occupied; I intend to reside in this property for the next twelve months; I have not received a condemnation notice; and there has been no change in the ownership of the Property since I signed the documents for the mortgage that I want to modify.
6. I am willing to provide all requested documents and to respond to all Servicer questions in a timely manner.
7. I understand that the Servicer will use the information in this document to evaluate my eligibility for a loan modification or short sale or deed-in-lieu of foreclosure, but the Servicer is not obligated to offer me assistance based solely on the statements in this document.
8. I am willing to commit to credit counseling if it is determined that my financial hardship is related to excessive debt.
9. I understand that the Servicer will collect and record personal information, including, but not limited to, my name, address, telephone number, social security number, credit score, income, payment history, government monitoring information, and information about account balances and activity. I understand and consent to the disclosure of my personal information and the terms of any Making Home Affordable Agreement by Servicer to (a) the U.S. Department of the Treasury, (b) Fannie Mae and Freddie Mac in connection with their responsibilities under the Homeowner Affordability and Stability Plan; (c) any investor, insurer, guarantor or servicer that owns, insures, guarantees or services my first lien or subordinate lien (if applicable) mortgage loan(s); (d) companies that perform support services in conjunction with Making Home Affordable; and (e) any HUD-certified housing counselor.

Borrower Signature	Date
Co-Borrower Signature	Date

HOMEOWNER'S HOTLINE

If you have questions about this document or the modification process, please call your servicer.

If you have questions about the program that your servicer cannot answer or need further counseling, you can call the Homeowner's HOPE™ Hotline at 1-888-995-HOPE (4673). The Hotline can help with questions about the program and offers free HUD-certified counseling services in English and Spanish.



NOTICE TO BORROWERS

Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that:

“Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct.”

If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or www.sig tarp.gov. Mail can be sent to Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.



[Name of Servicer]
[Address of Servicer]

[Loan #]
[Servicer FAX]
[Servicer Email]

[Date]

The SSA

[Name of Borrower]
[Name of Co-Borrower]
[Address of Borrower]

[Borrower Phone]
[Borrower Email]

Dear [borrower and co-borrower name(s)]:

If you are looking for help selling your home and avoiding foreclosure, the federal government has introduced the **Home Affordable Foreclosure Alternatives (HAFA)** Program to help you. As your mortgage servicer, we are offering you the opportunity to participate in this program by utilizing HAFA's short sale option.

Home Affordable Foreclosure Alternatives Program – Short Sale

A "short sale" is specifically designed to help borrowers who are unable to afford their first mortgage and want to sell their home to avoid foreclosure, even if the sale price may not pay off the amount owed on their mortgage. A short sale requires a number of parties (you, the buyer, your real estate broker, and sometimes mortgage insurance companies and other lenders) to work together to make this option successful. However, it could be a good solution for your current situation.

How Does a Short Sale Work?

- **Pre-Sale**—We will start by approving a list price for your home or give you the acceptable sale proceeds (the minimum amount that we must receive after sales costs) from the sale of your home. We will also identify the sales costs (broker commissions and closing costs) that may be deducted from the final sales price. You then list your property (like any home sale) with a local real estate broker at the approved price.
- **Offer**—When you get an offer on your home, you will submit the required documentation and we will approve the sale if it is in line with what we agreed to.
- **Closing**—Once the sale closes, we will release you from all responsibilities for repaying your mortgage. Plus, you will receive \$3,000 to help pay some of your moving expenses. (The check will be paid to you by the settlement agent as part of the closing.) In the event there is any money left over from the sale after paying the entire amount you owe on the mortgage plus the approved sale costs, you will not be eligible to receive the \$3,000.

To Participate in the Short Sale Program

Please note, there is no guarantee that your home will sell under this program, and you are responsible for determining whether you want to sell your home for the price and terms described in this letter. The following pages detail your responsibilities, additional information on the short sale process and the Terms and Conditions. **Additionally, this letter constitutes an agreement between us and you ("Agreement") so please read it carefully and completely.**

If you agree to the terms of the Agreement and want to proceed with a short sale, you must complete, sign and return the Agreement back to us. If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

Sincerely,
[Servicer Name]

To Accept This Offer

- Please sign and return this Agreement. All owners of the property must sign this Agreement.
- Obtain your broker's signature to acknowledge this Agreement, because your broker plays an important role selling your property. The Short Sale Program sections (pages 2-4) contain important information that you and your broker will need to review and discuss.
- Include a copy of your signed listing agreement.
- Include information on other liens secured by your home (such as home equity loans, homeowner association liens, tax liens or judgments).
- *[Insert only if applicable:]* Complete and sign the Hardship Affidavit form.

We must have these documents by *[insert date 14 calendar days from this request]*. Please send us these documents at the following address: *[insert servicer address]*.

Short Sale Program—Your Responsibilities

You have until *[insert date 120 calendar days from the date of this letter]* to sell your house. After that date, this Agreement terminates, unless it is extended by us. During this time you have certain responsibilities. You must:

- ❶ Keep your house and your property in good condition and repair and cooperate with your broker to show it to potential buyers.
- ❷ *[Insert only if applicable:]* Make partial mortgage payments of \$_____ by the first day of each month beginning on _____ 1, 20__ until your house is sold and title is transferred. While you are selling your house, you still legally owe the full amount of your current monthly mortgage payment. However, as part of this Agreement, we will accept this reduced payment until the house is sold and closes or this Agreement expires. These payments do not constitute a modification of your mortgage.
- ❸ Be able to provide the buyer of your home with clear title. To start, determine if you have other loans, judgments or liens secured by your home, such as a home-equity line of credit or a second mortgage. If there are such liens, you will need to either pay these loans off in full or negotiate with the lien holders to release them before the closing date. Under this program, you must make sure other lien holders will agree not to pursue other legal action related to the pay off of their lien, such as a deficiency judgment. You can get help from your broker to negotiate with the other lien holders.
- ❹ We may allow up to 6% of the unpaid principal balance of each loan (not to exceed an aggregate of \$6,000 for all the loans in total) to be paid from the sale proceeds to help get a lien release. If you have these types of liens or loans on your home, please gather any paperwork you have (such as your last statement) and send it to us when you return this signed Agreement. Remember, clearing these other liens and delivering clear and marketable title is your responsibility.
- ❺ At several stages of the short sale process, such as after an offer is received, you will need to complete some paperwork. You are responsible for returning all documents within the time allowed in this Agreement.

If you fulfill these responsibilities, we will postpone any foreclosure sale during the period of this Agreement.

Short Sale Program—Additional Information

- You can't list the property with or sell it to anyone that you are related to or have a close personal or business relationship with. In legal language, it must be an "arm's length transaction." If you have a real estate license you can't earn a commission by listing your own property. You may not have any agreements to receive a portion of the commission or the sales price after closing. Any buyer of your property must agree to not sell the home within 90 calendar days of the date it is sold by you. You may not have any expectation that you will be able to buy or rent [servicer may delete "or rent" in accordance with investor guidelines] your house back after the closing. Any knowing violation of the arm's length transaction prohibition may be a violation of federal law.
- We will need to talk to your broker and others involved in the sale. By signing this Agreement, you are authorizing us to communicate and share personal financial information about your mortgage, credit history, subordinate liens, and plans for relocation with your broker and other third parties that could be involved in the transaction including employees of the United States Treasury and its financial agents, Fannie Mae and Freddie Mac.
- The difference between the remaining amount of principal you owe and the amount that we receive from the sale must be reported to the Internal Revenue Service (IRS) on Form 1099C, as debt forgiveness. In some cases, debt forgiveness could be taxed as income. The amount we pay you for moving expenses may also be reported as income. We suggest that you contact the IRS or your tax preparer to determine if you may have any tax liability.
- We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over, or responsibility for the impact of this report on your credit score. To learn more about the potential impact of a short sale on your credit you may want to go to <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm>.

[Insert optional Deed-in-Lieu language if applicable:]

If by the termination date of this Agreement, you have complied with all your responsibilities but are unable to sell your home, we will allow you to convey ownership of your home and all real property secured by your mortgage loan (your "Property"). While this action, called a deed-in-lieu of foreclosure, will not allow you to keep your Property, it will prevent you from going through a foreclosure sale and it will release you from all responsibility to repay the mortgage debt. Additionally, you will still be eligible to receive \$3,000 to help with your moving expenses.

You and all other occupants must vacate your Property and provide clear and marketable title with a general warranty deed or local equivalent by *[insert date at least 30 days after the date of this Agreement]*. You must leave the house in broom clean condition, free of interior and exterior trash, debris or damage, and all personal belongings must be removed from the Property. The yard must be clean and neat and you must deliver all the keys and controls, such as garage door openers, to us. You may be required to sign standard pre-closing documents as well as attend a closing of the conveyance of your Property where all borrowers on the mortgage must be present.

You must also be able to deliver marketable title free of any other liens. We will allow up to six percent (6%) of the unpaid principal balance of each subordinate lien, in order of priority, not to exceed \$6,000 in aggregate for all subordinate liens, to be deducted from the sale proceeds to pay subordinate lien holders to release their liens. We require each subordinate lien holder to release you from personal liability for the loans in order for the sale to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.

By signing this letter, you are agreeing not only to a short sale but also to a deed-in-lieu of foreclosure if a short sale is not successful. If you have any questions about the deed-in-lieu of foreclosure, please call us before signing and returning this letter.]

Short Sale Program—Receiving/Accepting an Offer

When you receive an offer on your home, within the next 3 business days, you will send us a Request to Approve a Short Sale (RASS) form, a copy of which is attached to this Agreement as Exhibit A1. You will also need to send along a copy of the signed purchase offer and evidence that the buyer has funds to purchase the home, such as a letter that the buyer is approved for a mortgage loan. Within 10 business days of our receipt of these documents, we will approve the sale if it is within the terms and conditions of this Agreement and any other liens are released.

When the sale closes in accordance with this Agreement, we will accept the net sale proceeds (all the funds that remain after the approved sales costs have been paid) in full satisfaction of your mortgage with us and will release you from all future liability.

We hope you decide to take advantage of this short sale option. If you or your broker have any questions about this Agreement please call us at [insert servicer phone number].

If you would like to speak with a counselor about this program, call the Homeowner's HOPE™ Hotline 1-888-995-HOPE (4673). The Homeowner's HOPE™ Hotline offers free HUD-certified counseling services and is available 24/7 in English and Spanish. Other languages are available by appointment.

Short Sale Agreement Terms and Conditions

1. **List Price or Acceptable Sale Proceeds.** *[Choose one and delete unnecessary text.]* [You agree to list the property in “as is” condition for [dollar amount].] OR [We will accept a sales contract where the proceeds from the sale, less the expenses stated in paragraph 5. *Allowable Costs*, nets [dollar amount].] We are not responsible for the accuracy of the list price and have no responsibility to you in the event the property is not sold. We may require you to adjust the list price or other offer terms.
2. **Listing Agreement.** The listing agreement must include the following clauses:
 - a. **Cancellation Clause.** “Seller may cancel this Agreement prior to the ending date of the listing period without advance notice to the broker, and without payment of a commission or any other consideration, if the property is conveyed to the mortgage insurer or the mortgage holder.”
 - b. **Listing Agreement Contingency Clause.** “Sale of the property is contingent on written agreement to all sale terms by the mortgage holder and the mortgage insurer (if applicable).”
3. **Property Maintenance and Expenses.** You are responsible for all property maintenance and expenses during the listing period including utilities, assessments, association dues and costs for interior and exterior upkeep required to show the property to its best advantage. Additionally, until ownership is transferred, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses as provided in the mortgage documents, we may require that they be applied to reduce the mortgage debt.
4. *[Insert only if applicable:]* **Partial Mortgage Payments.** Beginning on _____ 1, 20____, you will be required to make partial mortgage payments of \$ _____ by the first day of each month during the term of the Agreement and pending transfer of property ownership. You are legally obligated to make the full amount of your current monthly mortgage payments. However, we will accept this reduced partial payment until the house is sold or this Agreement expires. The partial mortgage payments do not constitute a modification of your mortgage.
5. **Allowable Costs that May be Deducted from Gross Sale Proceeds**
 - a. **Closing Costs.** The closing costs paid by you or on your behalf as seller must be reasonable and customary for the market. *[Choose one and delete unnecessary text.]* [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed \$ _____.] OR [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed ____% of the list price.] OR [Closing costs which may be deducted from the gross sale proceeds are limited to title search and escrow expenses usually paid by the seller; reasonable settlement escrow/attorney’s fees; transfer taxes and recording fees usually paid by the seller; termite inspection and treatment as required by law or custom; pro-rated real property taxes; and, real estate commissions of ____ percent of the contract sales price [add other closing costs that may be included].]
 - b. **Subordinate Liens.** We will allow up to six percent (6%) of the unpaid principal balance of each subordinate lien in order of priority, not to exceed a total of \$6,000, to be deducted from the gross sale proceeds to pay subordinate lien holders to release their liens. We require each subordinate lien holder to release you from personal liability for the loans in order for the sale to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.
 - c. **Real Estate Commissions.** We will allow to be paid from sale proceeds, real estate commissions of ____ percent of the contract sales price, to be paid to the listing and selling brokers involved in the transaction. Neither you nor the buyer may receive a commission. Any commission that would otherwise be paid to you or the buyer must be reduced from the commission due on sale. *[Optional text:]* Please note: We have retained a vendor to assist your listing broker with the sale. The vendor and your listing broker will work together on your behalf to facilitate the sale process. *[Choose one and delete unnecessary text.]* [The vendor will be paid from sale proceeds [\$ _____] OR [an amount equal to ____% of the sales price].] OR [The vendor will be paid by us outside of the sales transaction.]
 - d. **Borrower Relocation Assistance.** If the closing of the short sale occurs in accordance with this Agreement, you will be entitled to an incentive payment of \$3,000 to assist with relocation expenses. We will instruct the settlement agent to pay you from the sale proceeds at the same time that all other payments, including the payoff of our first mortgage, are disbursed by the settlement agent. Only one payment per household is provided for the relocation assistance, regardless of the number of borrowers.

- 6. **Sales Contracts.** Within three business days of a bona-fide purchase offer, you must submit a Request for Approval of a Short Sale, which is attached as Exhibit A1, along with a copy of a fully executed Sales Contract, all addenda and Buyer’s documentation of funds or Buyer’s pre-approval or commitment letter on letterhead from a lender.
- 7. **Parties to the Sale.** The Sales Contract must contain the following clauses: “Seller and Buyer each represent that the sale is an “arm’s length” transaction and the Seller and Buyer are unrelated to each other by family, marriage or commercial enterprise.” “The Buyer agrees not to sell the property within 90 days of closing of this sale.”
- 8. **Closing.** The closing must occur within ____ calendar days of the Sales Contract execution date.
- 9. **Foreclosure Sale Suspension.** We may initiate or continue the foreclosure process as permitted by the mortgage documents; however, we will suspend any foreclosure sale date until the expiration date of this Agreement or the date of closing of an approved short sale, whichever is later, provided you continue to abide by the terms and conditions of this Agreement.
- 10. **Satisfaction and Release of Liability.** If all of the terms and conditions of this Agreement are met, upon sale and settlement of the property, servicer will prepare and send for recording a lien release in full satisfaction of the mortgage, foregoing all rights to personal liability or deficiency judgment.
- 11. *[Insert only if applicable.]* **Mortgage Insurer or Guarantor Approval.** The terms and conditions of the sale are subject to the written approval of the mortgage insurer or guarantor.
- 12. **Termination of this Agreement.** Unless otherwise agreed by the parties, this Agreement will terminate on *[insert date]*. We may also terminate this Agreement at any time if:
 - a. Your financial situation improves significantly, you qualify for loan modification, you bring the account current or you pay off the mortgage in full.
 - b. You or your broker fails to act in good faith in marketing and /or closing on the sale of the property, or otherwise fails to abide by the terms of this Agreement.
 - c. A significant change occurs to the property condition or value.
 - d. There is evidence of fraud or misrepresentation.
 - e. You file for bankruptcy and the Bankruptcy Court declines to approve the Agreement.
 - f. Litigation is initiated or threatened that could affect title to the property or interfere with a valid conveyance.
 - g. *[Insert only if applicable:]* You do not make the payments required under this Agreement.
- 13. **Settlement of a Debt.** The proposed transaction represents our attempt to reach a settlement of the delinquent mortgage. You are choosing to enter into this Agreement even though there is no guarantee that the transaction will be successful. In the event this transaction is unsuccessful, we may exercise our remedies under the mortgage, including foreclosure.

Signature of Servicer Representative

Title

Printed Name of Servicer Representative

Date

Short Sale Agreement

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE YOU SIGN, BECAUSE IT AFFECTS YOUR LEGAL RIGHTS.

Borrower Acknowledgement of Risks, Conditions and Contingencies. In signing and returning this Short Sale Agreement, I/we agree to all the stated terms and conditions.

Borrower Signature	Date	Co- Borrower Signature	Date
Printed Name		Printed Name	

Acknowledgement by Listing Broker

The undersigned listing broker ("Broker") is not a party of the Short Sale Agreement ("Agreement") above, but acknowledges that the Broker:

1. Has been retained by the borrower for the sale of the property.
2. Has reviewed the terms and conditions of the Agreement above.
3. Agrees that in the event of a conflict between the terms of the listing agreement and the terms agreed to by the borrower in the Agreement above, the listing agreement will be deemed amended to conform to the terms of the Agreement.
4. Acknowledges that pursuant to the Agreement, the Servicer will not review a sales contract unless a Request for Approval of Short Sale, attached as Exhibit A1, is completed.

Listing Broker Name	Listing Broker Signature
Address:	License #:
	Office Phone:
	Cell Phone:
Date:	E-mail Address:

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number].

If you would like to speak with a counselor about this program, call the Homeowner's HOPE™ Hotline 1-888-995-HOPE (4673). The Homeowner's HOPE™ Hotline offers free HUD-certified counseling services and is available 24/7 in English and Spanish. Other languages are available by appointment.

NOTICE TO BORROWER	
<p>Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that: " Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct."</p> <p>If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or www.sigtar.gov. Mail can be sent Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.</p>	

[Name of Servicer]
[Address of Servicer]

[Loan #]
[Servicer FAX]
[Servicer Email]

[Date]

The RASS

[Name of Borrower]
[Name of Co-Borrower]
[Address of Borrower]

[Borrower Phone]
[Borrower Email]

RE: Request for Approval of Short Sale Pursuant to Agreement Dated [Date of SSA]

This is a Request for Approval of the Short Sale Pursuant to Agreement Dated [Date of SSA] between the above referenced Servicer ("Servicer") and the borrower and co-borrower ("Borrower" or "you"). Under penalty of perjury you certify that:

- 1) the sale of the property is an "arm's length" transaction, between parties who are unrelated and unaffiliated by family, marriage, or commercial enterprise;
- 2) there are no agreements or understandings between you and the Buyer that you will remain in the property as a tenant or later obtain title or ownership of the property;

Program Terms And Conditions

- 3) neither you nor the Buyer will receive any funds or commissions from the sale of the property; and
- 4) there are no agreements or offers relating to the sale or subsequent sale of the property that have not been disclosed to the Servicer.

Please complete, sign and return the Terms of Sale on the following page.

Terms of Sale [All blanks to be completed by Borrower]:

1. Contract Sales Price	\$	6. Closing Date:
2. Less Total Allowable Closing Costs	\$	7. Approved Buyer(s):
a. Commissions	\$	
b. Settlement Escrow/Attorney Fees	\$	
c. Seller's Title and Escrow Fees	\$	8. Settlement Agent:
d. Subordinate Lien Payoff	\$	
e. Transfer taxes/stamps/recording fees	\$	
f. Real Property Taxes	\$	9. Settlement Agent's Address:
g. Termite Inspection/Repair	\$	
h. Borrower Relocation Assistance	\$ 3,000	
i. Other (attach explanation)	\$	
3. Net Proceeds to Servicer	\$	
4. Earnest Money Deposit	\$	10. Settlement Agent's Office Phone:
5. Down Payment	\$	11. Settlement Agent's Office Fax:

As required by the Short Sale Agreement, copies of the following documents are attached:

- Sales contract and all addenda
- Buyer's documentation of funds or Buyer's pre-approval or commitment letter on letterhead from lender

The Borrower represents that the information provided in this Request is true and accurate and authorizes the Servicer to disclose to the U.S. Department of the Treasury or other government agency, Fannie Mae and/or Freddie Mac any information provided in connection with the Making Home Affordable program.

Borrower Signature	Date	Co-Borrower Signature	Date
Printed Name		Printed Name	

If you would like to speak with a counselor about this program, call the Homeowners **HOPE™ Hotline 1-888-995-HOPE (4673)**. The Homeowner's HOPE™ Hotline offers free HUD-certified counseling services and is available 24/7 in English and Spanish. Other languages are available by appointment.

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

NOTICE TO BORROWER

Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that: "Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including the documents and information regarding my eligibility for the program, are true and correct."

If you are aware of fraud, waste, abuse, mismanagement or misrepresentations affiliated with the Troubled Asset Relief Program, please contact the SIGTARP Hotline by calling 1-877-SIG-2009 (toll-free), 202-622-4559 (fax), or www.sig tarp.gov. Mail can be sent Hotline Office of the Special Inspector General for Troubled Asset Relief Program, 1801 L St. NW, Washington, DC 20220.



To be Completed by Your Servicer

Approval of Short Sale - The Servicer consents to this Request for Approval of Short Sale and agrees to accept all net proceeds from the settlement as full and final satisfaction of the first mortgage indebtedness on the referenced property. This agreement is subject to the following:

- A. **Terms** – The sale and closing comply with all terms and conditions of the Short Sale Agreement between the Servicer and the Borrower as well as all terms and representations provided herein by the Borrower.
- B. **Changes** – Any change to the terms and representations contained in this Request for Approval of Short Sale or the attached sales contract between you and the buyer must be approved by the Servicer in writing. The Servicer is under no obligation to approve such changes.
- C. **Subordinate Liens** – Prior to releasing any funds to holders of subordinate liens/mortgages, the closing agent must obtain a written commitment from the subordinate lien holder that it will release Borrower from all claims and liability relating to the subordinate lien in exchange for receiving the agreed upon payoff amount.
- D. **HUD-1** – A HUD-1 Settlement Statement, which will be signed by you and the buyer at closing, must be provided to the Servicer not later than one business day before the date indicated in Line 4, *Closing Date*.
- E. **Bankruptcy** – If you are currently in bankruptcy or you file bankruptcy prior to closing, you must obtain any required consent or approval of the Bankruptcy Court.
- F. **Tax Consequences** – A short payoff of the mortgage may have tax consequences. You are advised to contact a tax professional to determine the extent of tax liability, if any.
- G. **Credit Bureau Reporting** – We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over or responsibility for the impact of this report on your credit score. To learn more about the potential impact of a short sale on your credit you may want to go to <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm>.
- H. **Payment Instructions** – Payoff funds and a final HUD-1 Settlement Statement must be received by the Servicer within 48 hours of closing in accordance with the attached wiring instructions. [*include instructions*]
- I. **Closing Instructions** – [*include proprietary closing instructions, if any*]

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

Signature of Servicer Representative

Title

Printed Name of Servicer Representative

Date

To be Completed by Your Servicer

Disapproval of Short Sale - The Servicer disapproves this Request for Approval of Short Sale, for the following reasons (check all applicable reasons):

<input type="checkbox"/>	You did not comply with all terms and conditions of the Short Sale Agreement between Servicer and Borrower dated ____/____/____ as it relates to section/s: _____
<input type="checkbox"/>	The Request for Approval of Short Sale was not complete and/or fully executed. <ul style="list-style-type: none"> <input type="checkbox"/> Failure to provide executed sales contract or addenda <input type="checkbox"/> Failure to provide buyer’s documentation of funds to close or buyer’s pre-approval or commitment letter on letterhead from lender
<input type="checkbox"/>	The net proceeds available to pay off the first mortgage loan are insufficient, due to: <ul style="list-style-type: none"> <input type="checkbox"/> Contract sales price is below list price stated in Short Sale Agreement <input type="checkbox"/> Net proceeds amount is less than acceptable net proceeds stated in Short Sale Agreement <input type="checkbox"/> Excessive financial concessions <input type="checkbox"/> Excessive commissions <input type="checkbox"/> Excessive closing costs <input type="checkbox"/> Excessive payments to subordinate liens/mortgages OR release of subordinate liens did not occur
<input type="checkbox"/>	The mortgage insurer did not approve the short sale.
<input type="checkbox"/>	Other:

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

Signature of Servicer Representative	Title
Printed Name of Servicer Representative	Date

[Name of Servicer]
[Address of Servicer]

[Name of Borrower]
[Name of Co-Borrower]
[Address of Borrower]

[Loan #]
[Servicer FAX]
[Servicer Email]

The Alt. RASS

[Borrower Phone]
[Borrower Email]

[Date]

RE: Request for Approval of Short Sale

You have taken an important step toward selling your home and avoiding foreclosure by participating in the federal government's **Home Affordable Foreclosure Alternatives** (HAFA) Program. This letter is a Request for Approval of a Short Sale and contains important information.

Read the following pages carefully and complete, sign and return the Terms and Conditions.

If you have not previously contacted us regarding eligibility for a loan modification, you should consider this alternative. Under the Home Affordable Modification Program (HAMP), you may qualify for a modification with affordable and sustainable monthly payments that would allow you to keep your home. Please contact us by *[insert date 14 calendar days from date of this request]* if you wish to be considered for a loan modification.

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

Sincerely,

[Servicer Name]

The borrower and co-borrower, if applicable (“Borrower” or “you”), of the above loan contacted the Servicer (“Servicer” or “we”) because your mortgage payments are no longer affordable and you would like to avoid foreclosure. After listing your house for sale, an offer was received. However, the sale may not be sufficient to pay off the loan. This is a Request for Approval of a Short Sale (“Request”) of the subject property, the net sale proceeds from which we agree to accept as the payoff of the mortgage loan even though the proceeds are expected to be less than the full amount due.

Short Sale Program—Terms and Conditions of the Request are as follows:

1. Allowable Costs that May be Deducted from Gross Sale Price

- a. **Closing Costs.** The closing costs paid by you or on your behalf as seller must be reasonable and customary for the market. [Choose one and delete unnecessary text.] [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed \$_____.] OR [Acceptable closing costs, including the commission, which may be deducted from the gross sale proceeds may not exceed ____% of the list price.] OR [Closing costs which may be deducted from the gross sale proceeds are limited to title search and escrow expenses usually paid by the seller; reasonable settlement escrow/attorney’s fees; transfer taxes and recording fees usually paid by the seller; termite inspection and treatment as required by law or custom; pro-rated real property taxes; and, negotiated real estate commissions not to exceed six percent (6%) of the contract sales price [add other closing costs that may be included].]
- b. **Subordinate Liens.** We will allow up to six percent (6%) of the unpaid principal balance of each subordinate lien in order of priority, not to exceed a total of \$6,000, to be deducted from the gross sale proceeds to pay subordinate lien holders to release their liens. We require each subordinate lien holder to release you from personal liability for the loans in order for the sale to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.
- a. **Real Estate Commissions.** We will allow to be paid from sale proceeds, real estate commissions as stated in the listing agreement between you and your broker, not to exceed six percent (6%) of the contract sales price, to be paid to the listing and selling brokers involved in the transaction. Neither you nor the buyer may receive a commission. Any commission that would otherwise be paid to you or the buyer must be reduced from the commission due on sale. [Optional text:] Please note: We have retained a vendor to assist your listing broker with the sale. The vendor and your listing broker will work together on your behalf to facilitate the sale process. [Choose one and delete unnecessary text.] [The vendor will be paid from sale proceeds [\$ _____] OR [an amount equal to ____% of the sales price]. OR [The vendor will be paid by us outside of the sales transaction.]
- b. **Borrower Relocation Assistance.** If the closing of the short sale occurs in accordance with this Agreement, you will be entitled to an incentive payment of \$3,000 to assist with relocation expenses. We will instruct the settlement agent to pay you from the sale proceeds at the same time that all other payments, including the payoff of our first mortgage, are disbursed by the settlement agent. Only one payment per household is provided for the relocation assistance, regardless of the number of borrowers.

2. **Property Maintenance and Expenses.** You are responsible for all property maintenance and expenses of your home until you convey your Property to us, including utilities, assessments, association dues, and costs for interior and exterior maintenance. Additionally, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses, we may require that they be applied to reduce the mortgage debt.

3. *[Insert only if applicable:]* **Partial Mortgage Payments.** Beginning on _____ 1, 20____, you will be required to make partial mortgage payments of \$_____ by the first day of each month during the term of the Request and pending transfer of property ownership. You are legally obligated to make the full amount of your current monthly mortgage payments. However, we will accept this reduced partial payment until the house is sold or this Agreement expires. The partial mortgage payments do not constitute a modification of your mortgage.

4. **Parties to the Sale.** The Sales Contract must include the following clauses: “Seller and Buyer each represent that the sale is an “arm’s length” transaction and the Seller and Buyer are unrelated to each other by family, marriage or commercial enterprise.” “The Buyer agrees not to sell the property within 90 days of closing of this sale.”
5. **Foreclosure Sale Suspension.** We may initiate or continue the foreclosure process as permitted by the mortgage documents; however, we will suspend any foreclosure sale date until the expiration date of this Request or the date of closing of an approved short sale, whichever is later, provided that you abide by its terms and conditions.
6. **Satisfaction and Release of Liability.** If all of the terms and conditions of this Request are met, upon sale and settlement of the property, we will prepare and send to the settlement agent for recording, a lien release in full satisfaction of the mortgage, foregoing all rights to pursue a deficiency judgment.
7. *[Insert only if applicable.]* **Mortgage Insurer or Guarantor Approval.** The terms and conditions of the purchase contract are subject to the written approval of the mortgage insurer or guarantor.
8. **Termination of This Request.** Unless otherwise agreed by the parties, this Request will terminate on *[insert date]* if the sale does not close. This Request may be terminated earlier if:
 - a. You fail to provide all the required documents listed above.
 - b. Your financial situation improves significantly, you qualify for a modification, you bring the account current or you pay off the mortgage in full.
 - c. You or your broker fails to act in good faith in closing on the sale of the property or otherwise fails to abide by the terms of this Request.
 - d. A significant change occurs to the property condition or value.
 - e. There is evidence of fraud or misrepresentation.
 - f. You file for bankruptcy and the Bankruptcy Court declines to approve the Request.
 - g. Litigation is initiated or threatened that could affect title to the property or interfere with a valid conveyance.
 - h. *[Insert only if applicable:]* You do not make the payments required under this Request.

Program Terms And Conditions



9. **Settlement of a Debt.** The proposed transaction represents the Servicer’s attempt to reach a settlement of the delinquent mortgage. You are choosing to enter into this transaction even though there is no guarantee that the transaction will be successful. In the event this transaction is unsuccessful, the Servicer may exercise all remedies under the mortgage, including foreclosure.

Under penalty of perjury, you certify that:

1. the sale of the property is an “arm’s-length” transaction, between parties who are unrelated and unaffiliated by family, marriage, or commercial enterprise;
2. there are no agreements or understandings between you and the Buyer that you will remain in the property as a tenant or later obtain title or ownership of the property;
3. neither you nor the Buyer will receive any funds or commissions from the sale of the property; and
4. there are no agreements or offers relating to the sale or subsequent sale of the property that have not been disclosed to the Servicer.

The Borrower represents that the information provided in this Request is true and accurate and authorizes the

Terms of Sale [All blanks to be completed by Borrower]:			
1. Contract Sales Price	\$	6. Closing Date:	
2. Less Total Allowable Closing Costs	\$	7. Approved Buyer(s):	
a. Commissions	\$		
b. Settlement Escrow/Attorney Fees	\$		
c. Seller's Title and Escrow Fees	\$	8. Settlement Agent:	
d. Subordinate Lien Payoff	\$		
e. Transfer taxes/stamps/recording fees	\$		
f. Real Property Taxes	\$	9. Settlement Agent's Address:	
g. Termite Inspection/Repair	\$		
h. Borrower Relocation Assistance	\$ 3,000		
i. Other (attach explanation)	\$		
3. Net Proceeds to Servicer	\$		
4. Earnest Money Deposit	\$	10. Settlement Agent's Office Phone:	
5. Down Payment	\$	11. Settlement Agent's Office Fax:	

As required by the Short Sale Program, copies of the following documents are attached:

- Signed Request;
- Copy of a signed listing agreement with a real estate broker, if applicable;
- Executed copy of the sales contract and all addenda;
- Buyer's documentation of funds or Buyer's pre-approval or commitment letter on letterhead from a lender;
- Information about other liens secured by your home such as home-equity loans;
- [Insert only if applicable:] Completed and signed Hardship Affidavit form; and
- Servicer must have these documents no later than [insert date 14 calendar days from date of this request] or we will not be able to respond to this request. Please send us these documents at the following address: [insert servicer address].

Servicer to disclose to the U.S. Department of the Treasury or other government agency, Fannie Mae and/or Freddie Mac any information provided in connection with the Making Home Affordable program.

Borrower Signature	Date	Co-Borrower Signature	Date
_____	_____	_____	_____
Printed Name		Printed Name	

If you would like to speak with a counselor about this program, call the Homeowner's HOPE™ Hotline 1-888-995-HOPE (4673). The Homeowner's HOPE™ Hotline offers free HUD-certified counseling services and is available 24/7 in English and Spanish. Other languages are available by appointment.

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

NOTICE TO BORROWER

Be advised that by signing this document you understand that any documents and information you submit to your servicer in connection with the Making Home Affordable Program are under penalty of perjury. Any misstatement of material fact made in the completion of these documents including but not limited to misstatement regarding your occupancy in your home, hardship circumstances, and/or income, expenses, or assets will subject you to potential criminal investigation and prosecution for the following crimes: perjury, false statements, mail fraud, and wire fraud. The information contained in these documents is subject to examination and verification. Any potential misrepresentation will be referred to the appropriate law enforcement authority for investigation and prosecution. By signing this document you certify, represent and agree that: " Under penalty of perjury, all documents and information I have provided to Lender in connection with the Making Home Affordable Program, including

Servicer Use Only




To be Completed by Your Servicer

Approval of Short Sale - The Servicer consents to this Request for Approval of Short Sale and agrees to accept all net proceeds from the settlement as full and final satisfaction of the first mortgage indebtedness on the referenced property. This approval is subject to the following:

- A. **Terms** – The sale and closing comply with all terms and conditions of the Request as well as all terms and representations provided herein by the Borrower.
- B. **Changes** – Any change to the terms and representations contained in the Request or the attached sales contract between you and the buyer must be approved by the Servicer in writing. The Servicer is under no obligation to approve such changes.
- C. **Subordinate Liens** – Prior to releasing any funds to holders of subordinate liens/mortgages, the closing agent must obtain a written commitment from the subordinate lien holder that it will release Borrower from all claims and liability relating to the subordinate lien in exchange for receiving the agreed upon payoff amount.
- D. **HUD-1** – A HUD-1 Settlement Statement, which will be signed by you and the buyer at closing, must be provided to the Servicer not later than one business day before the date indicated in Line 4, *Closing Date*.
- E. **Bankruptcy** – If you are currently in bankruptcy or you file bankruptcy prior to closing, you must obtain any required consent or approval of the Bankruptcy Court.
- F. **Tax Consequences** – A short payoff of the mortgage may have tax consequences. You are advised to contact a tax professional to determine the extent of tax liability, if any.
- G. **Credit Bureau Reporting** – We will follow standard industry practice and report to the major credit reporting agencies that your mortgage was settled for less than the full payment. We have no control over or responsibility for the impact of this report on your credit score. To learn more about the potential impact of a short sale on your credit you may want to go to <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm>.
- H. **Payment Instructions** – Payoff funds and a final HUD-1 Settlement Statement must be received by the Servicer within 48 hours of closing in accordance with the attached wiring instructions. [*include instructions*]
- I. **Closing Instructions** – [*include proprietary closing instructions, if any*]

If you have questions, please contact us directly between the hours of [insert hours] at [insert toll free number.]

Signature of Servicer Representative

Title

Printed Name of Servicer Representative

Date

To be Completed by your Servicer

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