



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

February 4, 2020

MEMORANDUM NO:
2020-AT-0801

Memorandum

TO: Julie Shaffer
Acting Deputy Assistant Secretary for Single Family Housing, HU

FROM: *//Signed//*
Nikita N. Irons
Regional Inspector General for Audit, Atlanta Region, 4AGA

SUBJECT: HUD Had Not Established Deadlines for Reporting FHA-HAMP Nonincentivized Loan Modifications and Filing Nonincentivized Partial Claims

INTRODUCTION

We audited the U.S. Department of Housing and Urban Development's (HUD) Federal Housing Administration, Home Affordable Modification Program's (FHA-HAMP) policies for reporting nonincentivized loan modifications and filing partial claims.¹ The audit was a result of a prior Office of Inspector General (OIG) external review in which we identified delays in reporting FHA-HAMP nonincentivized loan modifications and filing partial claims.² This audit was also part of our annual audit plan. The objective of the audit was to determine whether there was a need for HUD to issue a policy requiring servicers to report FHA-HAMP nonincentivized loan modifications and file FHA-HAMP nonincentivized partial claims within specific timeframes.

This memorandum contains two recommendations for corrective action. HUD Handbook 2000.06, REV-4, provides specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond

¹ Nonincentivized loan modifications are those modifications that are completed by the mortgagee [lender], without the mortgagee's receipt of an incentive payment from HUD.

² We identified these delays during an external audit, Report Number 2017-AT-1012. Since this was not part of the objective for this audit, we issued an internal memo to inform HUD of the delays in reporting the loan modifications and filing partial claims.

and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the review.

The Inspector General Act, Title 5 United States Code, Appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

METHODOLOGY AND SCOPE

We conducted the audit fieldwork from HUD headquarters and the OIG Office of Audit in Jacksonville and Miami, FL, between April and July 2019. To accomplish our objective, we

- reviewed prior OIG audit reports and memorandums relevant to the audit objective;
- reviewed applicable laws, regulations, and relevant HUD program requirements;
- reviewed FHA reports;
- interviewed HUD program officials;
- assessed HUD's policies for reporting and filing FHA-HAMP nonincentivized loan modifications and partial claims;
- obtained an understanding of HUD's single-family systems for reporting, filing, processing, and consolidating FHA-insured mortgage data; and
- obtained an understanding of FHA's mortgage insurance premium.

This was a limited scope audit, and we did not review HUD's internal and information system controls and procedures. Therefore, the audit was not performed in accordance with generally accepted government auditing standards. To meet our objective, it was not necessary to fully comply with the standards, nor did our approach negatively affect our review results. We believe that the information obtained provides a reasonable basis for our review results and conclusions based on our audit objective.

BACKGROUND

In 2009, FHA introduced a new loss mitigation option, FHA-HAMP, authorized by the Helping Families Save Their Homes Act of 2009. FHA-HAMP uses a loan modification or partial claim to allow the mortgage to be reinstated by establishing an affordable monthly payment and providing for principal deferment as needed. A loan modification modifies the contractual terms of the mortgage permanently, such as lowering the interest rate or increasing the mortgage term. A partial claim is FHA's reimbursement of a lender's advancement of funds on behalf of the borrower in an amount necessary to assist in reinstating the delinquent mortgage. The program allows lenders to receive an incentive fee of \$750 for the completion of a loan modification and \$500 for the successful completion of a partial claim if the characteristics of the loan modification are reported and the permanent FHA-HAMP documents are properly executed³ within 60 days of the execution date of the FHA-HAMP loan modification and the promissory note and mortgage, respectively.

During our prior review, we identified FHA-HAMP cases in which the terms of the loan modifications were not updated in HUD's system and the partial claims were not filed in a timely

³ A promissory note from the borrower for the amount of the partial claim must be executed in the name of the HUD Secretary, and a subordinate mortgage must be obtained and recorded, creating a lien on the property.

manner. Specifically, we identified 10 FHA-HAMP cases in which the terms of the loan modification were not reported in the Single Family Housing Enterprise Data Warehouse (SFHEDW)⁴ for the claims processed during the period October 1, 2014, through September 30, 2016. Of the 10 loan modifications, we noted that there was a prolonged period between the execution date of the loan modification agreement and the date on which the partial claim was received. Specifically, for 7 of the 10 cases, it took the servicer from 466 to 1,091 days (more than 1 to 3 years) after the loan modification agreements were executed to submit the associated partial claims to HUD for processing and payment. The total partial claim amount for these seven loans totaled \$678,952. At the time of this review, HUD's policy did not include timeframes or deadlines to ensure timely reporting for nonincentivized loan modifications and filing of nonincentivized partial claims.

RESULTS OF REVIEW

HUD's FHA-HAMP loss mitigation policy did not include deadlines to ensure timely reporting for nonincentivized loan modifications and filing of nonincentivized partial claims. Therefore, the servicers were not obligated to always report or report in a timely manner nonincentivized loan modifications and file or file in a timely manner nonincentivized partial claims in FHA Connection⁵ (FHAC). This condition occurred because HUD was aware of these issues but have yet to establish a policy for reporting the terms of nonincentivized loan modifications and filing the nonincentivized partial claims within specified timeframes or deadlines to address them. As a result, mortgage data from HUD's systems may not have accurately reflected the status of the FHA-insured mortgages for monitoring and financial reporting of the Mutual Mortgage Insurance Fund (MMIF)⁶. In addition, our recent corrective action verification⁷ review showed that HUD's Claims Subsystem programming did not always properly calculate the time between claims to suspend payment for claims that had a reported prior loss mitigation action within 24 months because the claims were not submitted in order.

HUD's Policy Did Not Include Deadlines To Ensure Timely Reporting for Nonincentivized Loan Modifications and Filing of Nonincentivized Partial Claims

We assessed HUD's policies for reporting and filing FHA-HAMP nonincentivized loan modifications and partial claims and determined that these policies did not include requirements to ensure timely reporting or filing. According to HUD Handbook 4000.1, after an FHA-HAMP loan modification is executed, the servicer is eligible to collect an incentive payment if it filed a claim within 60 days of the execution date of the modification.⁸ HUD also requires that the servicer report the characteristics of the modified mortgage, whether or not the servicers are

⁴ SFHEDW is an integrated data warehouse which consolidates critical data from multiple source systems for analytic and reporting purposes.

⁵ FHAC is an interactive system on the internet that gives approved FHA lenders and other HUD-approved business partners real-time access to data residing in a number of HUD-FHA systems. FHAC's functions facilitate FHA-approved lenders in originating and servicing FHA-insured single-family home mortgages and updating their lender information.

⁶ MMIF is a federal fund that insures mortgages guaranteed by FHA. MMIF is funded through premiums paid by borrowers of FHA-insured mortgages.

⁷ Audit memorandum number 2019-LA-0801, issued July 15, 2019

⁸ Handbook 4000.1, III.A.2.k.v(M), see appendix B.

eligible for an incentive for that modification, through FHAC.⁹ Although HUD required the terms of the loan modification to be reported, its policy did not include a specific timeframe or deadline for reporting the terms of executed nonincentivized loan modifications if the servicer missed the 60-day incentive deadline.

For FHA-HAMP partial claims, HUD required the servicers to deliver the original partial claim promissory note to HUD's servicing contractor no later than 60 days and the recorded subordinate mortgage no later than 6 months from the execution date.¹⁰ However, HUD had not established a required timeframe or deadline for filing a nonincentivized partial claim for reimbursement within HUD's system. To receive an incentive for completing an FHA-HAMP partial claim, HUD required a complete claim submission via FHAC within 60 days of the execution date of the promissory note and mortgage but no deadline for nonincentivized partial claims.¹¹ Under 24 CFR (Code of Federal Regulations) 203.371(d), if the mortgagee does not provide the original of the note and security instrument by the prescribed deadlines, the mortgagee must be required to reimburse the amount of the claim paid, including the incentive.

During a meeting with HUD's program director¹² at the National Servicing Center (NSC), we were informed that HUD was aware of the delay in reporting FHA-HAMP nonincentivized loan modifications and filing partial claims. Therefore, we determined that this condition occurred because HUD had not established a policy for reporting the terms of nonincentivized loan modifications and filing the nonincentivized partial claims within specified timeframes or deadlines to address known issues.

As a result, statutorily mandated reports may not have had current and accurate data. Specifically, the mandated Annual Report to Congress on the financial status of the MMIF and the annual actuarial review of the MMIF reports may not have had accurate loss mitigation mortgage data¹³ because the servicers did not report or report in a timely manner the updated terms of the modified loans or did not file or file in a timely manner the partial claims in HUD systems as discussed below.

Loan modification and partial claim data are reported and filed in FHAC by the servicers. These data are then processed in the Single Family Insurance System¹⁴ (SFIS) and Claims Subsystem,¹⁵ and then transferred to SFHEDW. Based on HUD's website, the SFHEDW system is a consolidated source of single-family mortgage and insurance data to facilitate queries and reporting in support of oversight activities, market and economic assessment, public and stakeholder communication, planning and performance evaluation, policy and guideline promulgation, and monitoring and enforcement. According to the NSC program director,

⁹ Handbook 4000.1, III.A.2.k.v(O), see appendix B.

¹⁰ Handbook 4000.1, III.A.2.k.v(J)(6)(a), see appendix B.

¹¹ Handbook 4000.1, IV.A.2.i, see appendix B.

¹² Office of Single Family Asset Management, Servicing and Loss Mitigation Division

¹³ The FHA loss mitigation data included FHA-HAMP loan modifications and partial claims.

¹⁴ SFIS is the FHA repository of single-family insured mortgages. SFIS is the system of record for all FHA-insured single-family loans and case records.

¹⁵ Claims Subsystem is a subset of SFIS.

HUD's Office of Risk Management and Regulatory Affairs¹⁶ regularly uses the data reported in these systems for analysis. The Risk Division is also responsible for preparing the statutorily mandated Annual Report to Congress on the financial status of the MMIF and the annual actuarial review of the MMIF. Therefore, if the servicers did not report or delayed reporting the changes to FHA-insured mortgages in HUD's systems, HUD would not have accurate and current mortgage information to properly evaluate and report the financial status of the FHA MMIF and statutorily mandated annual actuarial review of the MMIF to provide to Congress and other users of these reports.

In addition, the NSC program director stated that the delay in reporting and filing nonincentivized loan modifications and partial claims interfered with other aspects of HUD's claim system and HUD's insurance system for updating the data. The NSC program director stated that the data the servicers provide to HUD are critical to how HUD can monitor the servicers, assist borrowers, and keep the insurance on course with the correct timeframe. Therefore, having timeframes or deadlines for servicers to report FHA-HAMP nonincentivized loan modifications and file FHA-HAMP nonincentivized partial claims may ensure that HUD's systems are updated in a timely manner to reflect the status of the FHA-insured mortgages for monitoring and financial reporting of the MMIF.

Newly Imposed Deadlines May Assist With HUD's Controls Over the Claims Subsystem

OIG's recent memorandum on the corrective action verification of HUD's Claims Subsystem reported that HUD had implemented a new control that was generally effective within its Claims Subsystem to suspend payment for claims that had a reported prior loss mitigation action within 24 months.¹⁷ However, this control was ineffective because the Claims Subsystem's programming did not always properly calculate the time between claims that were submitted out of sequence by the servicer. If the servicer is required to file a claim within a timeframe or by a deadline, it will be required to submit the claims in order by a specific deadline, which may help to eliminate the time-calculating issue with HUD's Claims Subsystem.

CONCLUSION

Based on our review, we determined that there was a need for HUD to issue policies requiring servicers to report FHA-HAMP nonincentivized loan modifications and file the partial claims within specific timeframes because mortgage data from HUD's systems may not accurately reflect the status of the FHA-insured mortgages for monitoring and financial reporting of the MMIF. HUD was aware of these issues, but had not established a policy for reporting the terms of nonincentivized loan modifications and filing the nonincentivized partial claims within specified timeframes or deadlines to address them. After we brought the issues to HUD's attention, HUD officials agreed that a deadline should be established for the servicers to report the nonincentivized loan modifications and file the nonincentivized partial claims.

¹⁶ The Office of Risk Management and Regulatory Affairs includes the Offices of Risk Management, Evaluation, and Manufactured Housing.

¹⁷ HUD requires that to qualify a borrower for a loan modification or partial claim, lenders ensure that a borrower has not executed a separate loan modification or partial claim agreement in the past 24 months.

RECOMMENDATIONS

We recommend that the Deputy Assistant Secretary for Single Family Housing


- 1A. Update HUD's loss mitigation policies, to include deadlines for the servicers to file the FHA-HAMP nonincentivized partial claims, and consider imposing sanctions for noncompliance with these deadline requirements.
- 1B. Update HUD's loss mitigation policies, to include deadlines for the servicers to report the new terms of the FHA-HAMP nonincentivized loan modifications, and consider imposing sanctions for noncompliance with these deadline requirements.

Appendix A

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

	U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT WASHINGTON, DC 20410-8000
OFFICE OF HOUSING	DEC 20 2019
MEMORANDUM FOR:	Nikita N. Irons, Regional Inspector General for Audit, 4AGA
FROM:	Julie Shaffer, Acting Associate Deputy Assistant Secretary for Single Family Housing, HUD
SUBJECT:	Discussion and Comments on Draft Audit: HUD Had Not Established Deadlines for Reporting FHA-HAMP Non-incentivized Loan Modification and Filing Non-incentivized Partial Claims OIG Audit Report Number: 2020-AT XXXX Issue Date: November 26, 2019
<p>The Office of Inspector General (OIG) audited the U.S. Department of Housing and Urban Development's (HUD) Federal Housing Administration (FHA) Home Affordable Modification Programs (FHA-HAMP) policies for reporting non-incentivized loan modifications and filing partial claims. The audit was a result of a prior OIG external review in which we identified delays in reporting FHA-HAMP non-incentivized loan modifications and filing partial claims. The audit was also part of the OIG's annual audit plan. OIG's audit objective was to determine whether there was a need for HUD to issue a policy requiring servicers to report FHA-HAMP non-incentivized loan modifications and file FHA-HAMP non-incentivized partial claims within specific timeframes.</p> <p>The Office of Single Family Housing (Housing) agrees with the OIG findings described in the draft audit and will develop action plans to address the audit recommendations.</p>	

**Ref to OIG
Evaluation**

Auditee Comments

Response to OIG Proposed Recommendations

1. Recommendation Highlights and Conclusion

Comment 1

For recommendation 1A, the OIG recommends that the Deputy Assistant Secretary for Single Family Housing update HUD's loss mitigation policies, to include deadlines for the servicers to file the FHA-HAMP non-incentivized partial claims and consider imposing sanctions for noncompliance with these deadline requirements. Housing agrees that a deadline for servicers to file non-incentivized partial claims should be established and will review partial claim information to propose a timeframe in a future servicing handbook update. This update to policy is contingent on a legal opinion from HUD's Office of General Counsel (OGC) affirming HUD's legal authority to impose such a deadline.

Comment 1

For recommendation 1B, the OIG recommends that the Deputy Assistant Secretary for Single Family Housing update HUD's loss mitigation policies to include deadlines for servicers to report the new terms of the FHA-HAMP non-incentivized loan modifications and consider imposing sanctions for noncompliance with these deadlines. Housing will consult with OGC to determine if a timeframe to file non-incentivized claims can be enforced and if sanctions can be imposed for failure to do so.

Conclusion

Comment 1

As indicated above, Housing agrees with the findings and recommendations outlined in the draft audit and agrees to take appropriate corrective actions. Housing will provide details and target completion dates in its Management Decision.

OIG Evaluation of Auditee Comments

Comment 1 OIG appreciates HUD's cooperation throughout the audit and acknowledges HUD's agreement to the recommendations as it will work with its Office of General Counsel to take appropriate corrective actions. We look forward to continued cooperation during the audit resolution process.

Appendix B

RELEVANT CRITERIA

Handbook 4000.1, III.A.2.k.v(M) – FHA-HAMP Incentive

The Mortgagee [lender] may claim an incentive for use of the FHA-HAMP Option if:

- the permanent FHA-HAMP documents are executed within 60 Days of the Borrower's successful completion of their TPP [trial payment plan];
- the Mortgagee reports to HUD the characteristics of the FHA-HAMP Loan Modification; and
- three or more full monthly payments are due and unpaid (i.e., 61 Days or more past due) when the FHA-HAMP documents are executed.

Handbook 4000.1, III.A.2.k.v(O) – Reporting of FHA-HAMP Loan Modification Terms

When an FHA-HAMP Loan Modification is used, the Mortgagee must report the characteristics of the modified Mortgage, whether or not the Mortgagee is eligible for an incentive for that modification, through FHAC or EDI [electronic data interchange].

Handbook 4000.1, III.A.2.k.v(J)(6)(a) – Delivery of Partial Claim Documents

The Mortgagee must deliver to HUD's Servicing Contractor:

- no later than 60 Days from the execution date, the original Partial Claim promissory Note;
- no later than six months from the execution date, the recorded subordinate Mortgage; and
- with each delivery of Partial Claim documents, the Mortgagee must include a cover letter with the FHA case number for the documents that are being delivered.

Handbook 4000.1, IV.A.2.i – Claim Type 33 ** - FHA-HAMP Partial Claim

The Mortgagee may file a claim for an FHA-HAMP Partial Claim incentive and insurance benefits under Claim Type 33. The Mortgagee may include in its claim legal fees and foreclosure costs for partial claims as outlined in the Servicing and Loss Mitigation section of the SF [single family] Handbook. HUD will pay the Mortgagee a financial incentive for the use of an FHA-HAMP Partial Claim in compliance with all regulatory requirements and procedures relating to the submission of incentive claims in FHAC.

The Mortgagee may only file for an incentive fee for the Loss Mitigation Option used to cure the Default. When the FHA-HAMP Partial Claim and FHA-HAMP Loan Modification are used together, the Mortgagee must submit two separate claims for the incentives for these two options.

HUD must receive a correct and complete claim submission of Parts A and B via FHAC within 60 Days of the execution date of the promissory Note and Mortgage or the incentive will be disallowed.