# Key Differences in HAFA Guidelines for Non-GSE[1], Fannie Mae, and Freddie Mac Mortgages

(September 2010)

| | Non-GSEs | Fannie | Freddie |
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| **1. Deadline for Implementation** | April 5, 2010 | August 1, 2010 | August 1, 2010 |
| **2. Applicability** | Program is for servicers participating in HAMP and covers mortgages and borrowers qualifying for HAFA. Does not apply to mortgages owned or guaranteed by Fannie or Freddie or to FHA, VA, or USDA Rural Development loans. | HAFA must be implemented by all servicers for all conventional mortgage loans that are held or guaranteed by Fannie with some exceptions. | Same as Fannie's guidelines. |

[1] Non-GSE refers to mortgages not owned or guaranteed by Fannie Mae or Freddie Mac. FHA, VA, and USDA Rural Development have their own short sale programs and are not participating in HAFA.

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| **3. Threshold Eligibility Requirements** | Must meet Home Affordable Modification Program (HAMP) threshold eligibility requirements:<br>• Property must be borrower's primary residence (unless qualifies for applicable employment exception).<br>• First lien must have originated on or before January 1, 2009.<br>• Borrower must be delinquent or default must be reasonably foreseeable.<br>• The current unpaid principal balance may not exceed $729,750.<br>• The total monthly payment must exceed 31% of borrower's gross income.<br>• Borrower may request HAFA or servicer must have previously exhausted HAMP and other home retention alternatives. | Same as non-GSE, except:<br>• borrowers are ineligible if they have:<br>    • The ability to make mortgage payments, but choose not to do so (strategic default).<br>    • Substantial unencumbered assets or significant cash reserves equal to or exceeding 3 times. borrower's total monthly mortgage payment or $5,000, whichever is greater.<br>    • High surplus income.<br>• Property cannot be within 60 days of foreclosure sale date unless Fannie approves; see row 4. | Same as non-GSE, except:<br>• Borrower must be more than 60 days delinquent.<br>• Borrower's cash reserves must be less than the greater of $5,000 or 3 times the current monthly payment. |

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| **4. Effect of Foreclosure on HAFA Eligibility** | Foreclosure may be initiated while a borrower is considered for HAFA eligibility. A servicer must use its written policy that complies with investor guidelines to determine if a borrower will be considered for the HAFA program. Some investors guidelines may dictate that if a foreclosure sale date has been set, the borrower will not be considered for a short sale. | Servicers must not consider a borrower who requests the HAFA program, or solicit a borrower who is unable to retain their home with the help of a HAMP loan modification, without prior written consent by Fannie if:<br><br>(i) Foreclosure sale is scheduled to be held within 60 days.<br>(ii) Foreclosure could be initiated and reasonably expected to result in a foreclosure sale being held within 60 days.<br>(iii) 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. | An eligible, qualified Borrower must be considered for HAFA before the mortgage is referred to foreclosure. For properties already referred for foreclosure, see row 13. |
| **5. Short Sale Solicitation** | Servicers must consider HAMP-eligible borrowers within 30 calendar days after borrower:<br>• Does not qualify for HAMP trial.<br>• Does not successfully complete trial.<br>• Is delinquent on a HAMP mod (misses 2 consecutive payments).<br>• Requests a short sale or Deed-in-Lieu of foreclosure (DIL). | Same as non-GSE, except there is no 30 day deadline for consideration. Also, Fannie provides a form letter for soliciting participation. | Same as non-GSE. |

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| **6. Determination of List Price** | List price must be more than or equal to Minimum Acceptable Net Proceeds (MANP) plus the sum of all allowable transaction costs. This will be determined by each servicer based on its written policy, consistent with investor guidelines on calculating MANP. | Servicer will use a current Broker Price Opinion (BPO), or appraisal if required, to determine the MANP. This will be used by the servicer to establish a list price that is greater than MANP, includes allowable transaction costs, and reflects current market conditions. Listing price should be set at a level that will facilitate a sale within the specified marketing period. | Servicer determines minimum list price based on a current 'as is' BPO, or appraisal, minus allowable transaction costs. Real estate broker and borrower decide actual list price necessary to obtain final sale at minimum list price. |
| **7. Monthly Payment** | Borrower may be required to make monthly payment. In no event will the payment exceed 31% of the borrower's gross monthly income. | Same as non-GSE. | Payment will be equal to 31% of the borrower's verified gross monthly income. |
| **8. Maximum Transaction Costs** | Reasonable and customary closing costs, as specified in the SSA. | Same as non-GSE. | Freddie Mac will pay up to a total of 9% of the final sale price including:<br>• Up to 3% for reasonable closing costs customarily paid by the seller.<br>• Up to 6% for real estate brokerage commissions. |
| **9. Commissions** | The servicer specifies the amount of the commission in the Short Sale Agreement (SSA) as a reasonable and customary closing cost, capped at 6%. If the Alternative RASS is used (contract obtained before SSA is signed by all parties), commission is the amount in listing agreement, up to 6%. | The servicer may not require that the commission in the listing agreement be reduced to less than 6% of the sales price of the property. | Same as Fannie. |

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| **10. Incentives** | Treasury pays the following incentives under HAFA:<br>• Homeowner/borrower incentive for moving costs: $3,000.<br>• Subordinate lien incentive: Each subordinate lien holder, in order of priority, will receive 6% of the unpaid principal balance up to a total cap of $6,000 for all subordinate liens (Treasury pays for 1/3 of total, up to $2,000, to compensate investor).<br>• Servicer incentive: $1,500 for short sale or DIL. | Same as non-GSE, except the servicer incentive is $2,200 for a short sale. In addition, the Treasury Department does not pay for the incentives. | Same as Fannie. |
| **11. Private Mortgage Insurance** | Mortgage Insurer (MI) must approve and release borrower from deficiency claims and may not require cash contributions or promissory notes. | Same as non-GSE. Also, Fannie is working to engage MI companies to get blanket, or delegated, authority with some conditions. | Same as non-GSE. Also, preliminary MI approval must be sought before servicer offers SSA to borrower. |
| **12. Closing** | Servicer may require that closing take place within a reasonable period following approval of Request for Approval of Short Sale (RASS) acceptance but not sooner than 45 days from the date of the sales contract, unless the borrower approves. | Servicer may not require closing to take place less than 45 days from the date of sales contract without the consent of the borrower. Closing must be no later than 60 days after the contract execution or approval, whichever occurs later. Extensions must be approved by Fannie. | Same as Fannie, except closing must not be later than 60 calendar days from date of contract without the consent of Freddie. |
| **13. Effect of HAFA on pending Foreclosures** | Foreclosure may continue during HAFA process, but foreclosure sale cannot be completed. See row 4. | Same as non-GSE. | Same as non-GSE. |

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| **14. Short Sale Agreement (SSA)** | The SSA outlines the roles and responsibilities of the servicer and borrower in the short sale listing process. | Same as non-GSE. | Same as non-GSE. |
| **15. Extension of SSA.** | Initial term of the SSA is 120 calendar days. The SSA can be extended up to a total of 12 months by agreement of the servicer and borrower. | Same as non-GSE, except extension must not otherwise delay a foreclosure sale and must receive Fannie Mae's prior written approval. | Same as non-GSE, except the servicer may request Freddie Mac permission to extend, if request is submitted no later than 15 days prior to the expiration of the term. Sales price, marketing strategy, and choice of broker will be reassessed if the term is extended. |
| **16. Request for Approval of Short Sale (RASS)** | The RASS outlines the terms of the sales transaction to the servicer. Needs to include:<br>• Copy of executed contract.<br>• Documentation of buyer's funds or commitment letter.<br>• Status of negotiation with subordinate lien holders. | Same as non-GSE. | Same as non-GSE, except Freddie requires copies of all documentation that subordinate lien holders have released their liens and the borrower from liability. Freddie has restructured the RASS by breaking out the approval and disapproval pages as separate forms. |
| **17. Alternative Request for Approval of Short Sale (ARASS)** | The ARASS is used to request approval of a short sale if executed sales contract obtained before a SSA is executed. | Same as non-GSE. | No Alternative RASS is permitted. In this situation, the rules for a Freddie Classic Short Sale apply instead of HAFA. |
| **18. Deed-in-Lieu Agreement** | The DIL Agreement outlines the terms and conditions of the DIL, in addition to the responsibilities of the borrower. | Same as non-GSE. | Same as non-GSE. |