

Treasury Department Issues New Guidance for HAFA Short Sales

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The U.S. Treasury Department has released updates to the policy guidelines for the Home Affordable Foreclosure Alternatives (HAFA) program, which provides additional options to homeowners who do not qualify for a federal modification and offers incentives to borrowers, servicers, and investors who utilize a short sale or deed-in-lieu to avoid foreclosure.

The updated guidelines impose a new acknowledgment requirement. Within 10 business days following receipt of a request for a short sale or deed-in-lieu (DIL), the servicer must send written confirmation to the borrower acknowledging the request.

This timeframe for acknowledgement applies whether the request is in response to a notice sent by the servicer regarding HAFA as an option or is initiated by the borrower. The acknowledgment must include a description of the servicer's HAFA evaluation process and a timeline for decision.

The timeline for a decision has been extended to no more than 45 calendar days from the date the borrower requests a short sale or DIL. Servicers must provide the borrower with a written approval, denial, or an alternative offer within 45 days of receiving a completed request form, along with a copy of the executed sales contract and supporting documentation regarding subordinate liens.

If the servicer is unable to respond within 45 calendar days, the servicer must send a written status notice to the borrower on or before the 45th calendar day, with written updates every 15 calendar days until a decision is provided.

In addition, servicers now have the discretion to approve short sales to non-profit organizations with the stated purpose that the property will be rented or resold to the borrower – an option previously prohibited by the program's "arm's length" requirement.

Servicers must retain in the servicing system and/or mortgage file the evidence provided during the HAFA evaluation demonstrating that the organization was a nonprofit group.

The directives outlined take effect June 1, 2011, however Treasury is encouraging servicers to begin implementing the changes immediately.

According to Treasury's latest status report on its foreclosure prevention programs, as of the end of February, 4,488 homeowners had completed a short sale or DIL through HAFA. Another 10,177 homeowners have agreements in place with their servicers for HAFA transactions.