October 20, 2022

Julia R. Gordon
Assistant Secretary for Housing/Federal Housing Commissioner
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

Via Email

Dear Commissioner Gordon,

The National Council of State Housing Agencies (NCSHA) and the Housing Policy Council (HPC) urge the Federal Housing Administration (FHA) to extend eligibility for COVID-19 Recovery Home Retention Options to homeowners who have received assistance through the Homeowner Assistance Fund (HAF). Doing so would amplify the benefits of both HAF and FHA loss mitigation, both of which have more limited impact under the current market conditions, with high inflation and high interest rates.

Background:

The Homeowner Assistance Fund (HAF) Program, authorized under the American Rescue Plan, is the primary source of cash assistance for homeowners financially impacted by COVID-19. The program is operated at the state level by HAF Administering Agencies, forty-two of which are state HFAs, and is overseen at the federal level by the U.S. Department of Treasury (Treasury).

Since HAF's inception, Treasury and the HAF administrators have been working closely with mortgage loan servicers, housing counselors, and legal aid providers to deliver needed assistance to homeowners. We have collaborated in numerous ways: developing standard documents and tools, including a Collaboration Agreement, Third Party Authorization, and Common Data File (CDF), by which states and servicers share confidential information about borrowers; jointly hosting regular and ad hoc discussions between mortgage loan servicers and states that focus on policy and operational matters; and producing a CDF Toolkit and CDF training sessions for more than 500 industry partners.

These collective efforts have enabled over 60,000 homeowners to receive HAF assistance (through June 2022). Across all states, the average amount of assistance available to a homeowner is $40,668.

To be eligible for HAF assistance, Treasury requires homeowners to attest and describe the financial hardship experienced after January 21, 2020. Additionally, as part of the HAF pre-qualification process, most HAF agencies ask homeowners if they can resume making their regular mortgage loan payments. If they cannot, a number of states offer on-going monthly mortgage assistance to homeowners to keep their mortgage loan current after being reinstated with HAF funds.

A less-used HAF Program, "Loss Mitigation with HAF Assistance," is intended to pay off outstanding arrearages and also provide monthly payment reduction through a concurrent loan modification. Unfortunately, this program is not scalable for the 50+ state program administrators and hundreds of servicers involved. To date, few have been able to perform the required multi-party communications, processing, and funding efficiently and therefore, few cases have been completed.

Recommendation:

We urge FHA to permit borrowers who have been pre-qualified for or received HAF assistance that has brought the loan current to be eligible to receive a COVID-19 Recovery Home Retention Option, as a separate transaction from HAF. As part of the HAF qualification process, these borrowers could *verbally* attest that they cannot afford their pre-hardship monthly mortgage payment. *But for the HAF assistance, these borrowers would be delinquent and therefore eligible for FHA's COVID-19 waterfall.*

Rationale / Benefits:

1. *Affordability: The Higher Interest Rate Environment Makes It More Difficult to Achieve a Lower Mortgage Payment through a Loan Modification Alone*

By permitting a borrower who receives HAF assistance to subsequently pursue an FHA COVID-19 Recovery loan modification, FHA will enable homeowners to maximize the use of a partial claim to defer a portion of the outstanding loan balance to reduce the monthly payment. This is possible because HAF assistance will cover the accumulated arrearages associated with the payment forbearance period and the partial claim will be applied against the unpaid principal balance. The consecutive use of HAF and then an FHA COVID-19 loan modification will assist both the homeowner, and FHA, by mitigating FHA's potential future losses and the severity of those losses.

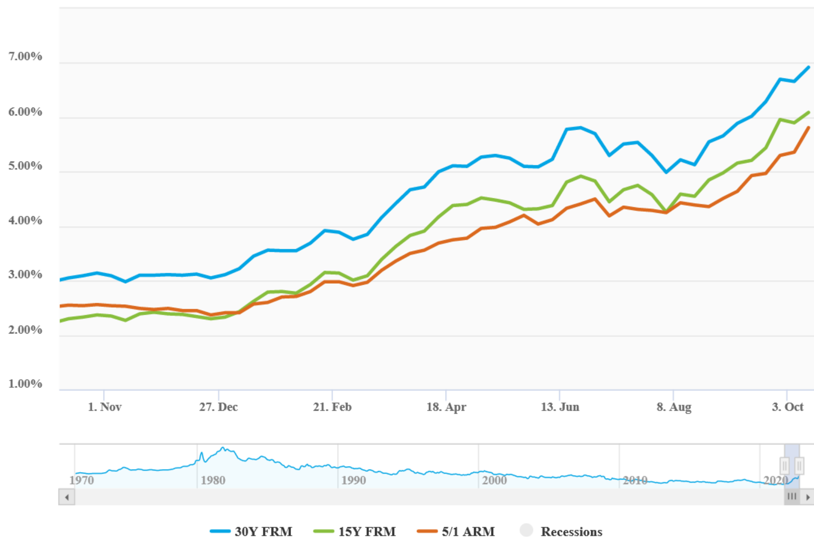
Unfortunately, as a result of the rising interest rate environment, loan modifications are less likely to reduce monthly mortgage loan payments to the levels expected by the various government agencies and GSEs. Increasingly, homeowners are rejecting loan modifications that extend their loan term while also increasing their interest rate, notwithstanding the potential HAF assistance they are being offered.

When FHA released the COVID-19 Recovery Home Retention Options in July 2021, homeowners could achieve a lower payment through a loan modification because market interest rates were much lower. For the week ending July 22, 2021[1], the Freddie Mac Primary Mortgage Market Survey (PMMS) 30-year rate

[1] The week that Mortgagee Letter 2021-18 was released, which detailed the COVID-19 Recovery Home Retention Options.

was 2.78 percent. For the week ending October 13, 2022, it was 6.92 percent. In fact, as the below graph of the 10-year PMMS illustrates, virtually no one who received a mortgage loan in the last 10 years should have any expectation of receiving a loan mod that will result in a lower mortgage payment via a loan modification today without somehow reducing their unpaid principal balance (UPB).

Exhibit 1: Freddie Mac Primary Mortgage Market Survey (PMMS), 10-Year Graph



2. *Efficiency: The Combination of HAF Assistance with FHA Loss Mitigation will Make it* ***Efficient*** *to Maximize Help for Borrowers Who Cannot Resume Making Their Regular Mortgage Payments*

Today, only borrowers who are delinquent are eligible for FHA COVID-19 Home Retention Options.[2] This rule could be interpreted to require a homeowner brought current by HAF to stop paying in order to be able to access the COVID-19 Recovery Home Retention Options. Otherwise, once a borrower is reinstated, the only path to pursue a loan modification is for a servicer to evaluate a homeowner under the more document intensive "imminent default" rules. Even then, the homeowner is not eligible to receive a streamlined COVID-19 Recovery Home Retention Option.[3]

3. *Alignment: This Arrangement Reinforces FHA's Existing Loss Mitigation Rules*

The use of HAF followed by an FHA loan modification is consistent with FHA's loss mitigation rules (24 CFR Section 203.501). These regulations are designed to enable lower payments for Borrowers who cannot resume making their regular mortgage payments, an arrangement by which FHA may prevent mortgage loan defaults, if not foreclosures.

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[2] HUD Handbook 4000.1, Section III.A.2(3) on page 1031: The HUD Handbook requires a Mortgagee to re-review Borrowers and implement the COVID-19 Recovery Home Retention Options if… "the Borrower became Delinquent due to the COVID-19 pandemic after reinstating using a COVID-19 Home Retention Option".

[3] Ibid., page 945.

Additional Recommendations:

In addition to issuing policy guidance to permit HAF to be applied as a separate transaction and still allow a homeowner to receive FHA COVID-19 Recovery Home Retention loss mitigation, we request that FHA consider three additional changes to facilitate the use of HAF assistance to help more homeowners and to reduce FHA's potential loss severity.

1) Increase the amount of Partial Claim cap a homeowner has available to the maximum statutory amount – 30 percent. If FHA will not consider doing this for every Borrower who is receiving HAF monies, then at least consider it for homeowners who already have an outstanding Partial Claim balance so as to mitigate against the Borrower going into foreclosure. We see this as a greater immediate risk when compared to a Borrower potentially needing to use the remaining 5 percent later.

2) Allow HAF recipients to also use the COVID-19 Recovery Home Retention Options until state HAF funding is fully allocated or through September 30, 2026, when HAF programs expire. This will better facilitate the use of HAF funds for COVID-19 impacted homeowners particularly in subsequent years of the HAF Program, when homeowners may need more HAF assistance.

3) Engage NCSHA and HPC in advance of issuing clarifications to ensure that the language used in its clarifications communicates the flexibilities that FHA intends, particularly as most states and servicers are using the Common Data File, which has clear operational steps and standards.

Our recommendations are the result of extensive collaboration and compromise among state HAF administering agencies, mortgage loan servicers, and the housing and legal counseling advocacy community to solicit their ideas about how HAF programs can more efficiently provide needed assistance to homeowners in this rising interest rate environment.

We appreciate your consideration of our recommendations and welcome the opportunity to discuss them at your earliest opportunity to ensure smooth implementation.

The National Council of State Housing Agencies

The Housing Policy Council