



February 18, 2010

The Honorable Timothy F. Geithner  
Secretary of the Treasury  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Secretary Geithner:

The Mortgage Bankers Association (MBA) appreciates the efforts of the federal government in offering the Home Affordable Modification Program (HAMP). However, many troubled borrowers are still facing barriers to modifications, especially those who have lost their jobs due to the business conditions of the recent recession. For this reason, MBA proposes a new forbearance program to help keep unemployed borrowers in their homes.

Over the last year, we have seen the ranks of the unemployed increase by about 5.5 million people, increasing the number of seriously delinquent loans by almost 2 million loans and increasing the rate of new foreclosures from 1.07 percent to 1.42 percent. Furthermore, the U.S. Bureau of Labor Statistics (BLS) reports that the average unemployed U.S. worker in 2009 was unemployed for six to seven months – a considerable time period for an unemployed individual to try to stay current on his or her debts.

There is no doubt that unemployment is a serious challenge for many Americans right now, many of whom are mortgage borrowers. However, unemployment is usually a temporary condition where the worker is actively searching for a job and willing to work. This is why MBA proposes a forbearance program for unemployed owner-occupant borrowers, whether they are current or delinquent, who have involuntarily lost their employment.

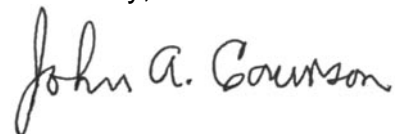
Under our proposal, loan servicers that participate in this program would reduce monthly payments to an affordable level based on household income. Borrowers would be initially evaluated for the forbearance program using a model that assumes the borrower will be reemployed at 75 percent of the borrower's previous salary. The borrower would be reevaluated as to employment and income status every three months for a total forbearance of nine months. Once reemployed, the borrower will be evaluated for a HAMP modification. Attached is a description of the proposed forbearance program for your consideration.

In discussions with various stakeholders as we developed this proposal, questions were raised about the accounting treatment of loans in forbearance. Ideally, the best result would be that a nine-month forbearance plan would not be considered a troubled debt restructuring (TDR) because of the receipt of partial payments during the forbearance period (e.g., no significant loss of cash flow). Equally important, however, is how the loans will be treated under GAAP and RAP if such forbearance plans result in TDRs. Requiring amortizing payments during the forbearance period would demonstrate that the loan is not collateral dependant, thus providing a reasonable basis to measure these loans using a discounted present value of expected cash flows approach rather than the fair value of the collateral, the latter of which is being debated by the Office of the Comptroller of the Currency. Unless favorable accounting treatment is granted and appropriate lending facilities are offered, the program must be voluntary and flexible.

We strongly believe that enhancing HAMP in this way is in the best interest of borrowers, servicers, investors and the taxpayers. Borrowers benefit because they get help that is more tailored to their specific situation and many borrowers will qualify for a forbearance that might not qualify for a trial modification, thereby expanding the effectiveness of HAMP. The taxpayers benefit because resources will be spent in the most efficient way by avoiding putting people with temporary problems into permanent solutions paid for in part by the government.

MBA appreciates the opportunity to share this proposal with you and looks forward to working with you in crafting such an enhancement to HAMP.

Sincerely,

A handwritten signature in cursive script that reads "John A. Courson". The signature is written in black ink and is positioned above the printed name and title.

John A. Courson  
President and Chief Executive Officer  
Mortgage Bankers Association



## Unemployed Borrower Bridge to HAMP Modification

February 18, 2010

### Purpose

To provide a more tailored loss mitigation solution in association with the HAMP program for borrowers who have suffered a temporary and significant reduction in household income due to involuntary unemployment.

### Optional Program

Due to the Office of the Comptroller of the Currency's (OCC's) collateral valuation treatment of forbearances, the forbearance program must be voluntary.

### General Forbearance Bridge Structure

- **Phases of Forbearance** – An unemployed borrower would enter into a forbearance plan for a period up to 90 days long (one phase) that may be renewed twice after the initial forbearance (for a total of three phases).\*
- **Reevaluation** – Renewal would be based on an evaluation of the borrower's present financial circumstances at the end of each forbearance phase.
- **Duration** – The total time of forbearance is nine months.
- **Goal** – At the end of the nine-month period, or when the borrower regains employment, the borrower will be evaluated for a HAMP modification. If eligible, the borrower will then complete a trial modification for three months based on household income. The loan will be permanently modified upon compliance with the trial period requirements.

### Maximizing Program Availability for Borrowers

- **Low Cost Advancing Vehicle (LCAV)** – Establish a special financing vehicle within Treasury to supply reasonable funds at a fixed rate to participating mortgage servicers to facilitate advances of principal, interest, taxes and insurance for the extended forbearance period.
- **Risk Sharing** – Establish a loss sharing mechanism that would encourage stakeholders to take the greater risk of loss associated with forbearing foreclosure whereby:
  - A portion of lost value of the home is paid to the investor, similar to the home price decline program.
  - Increased debt caused by advancing of taxes and insurance payments (e.g. payments to third parties).

---

\* The accounting treatment of forbearance programs may impact the ability to extend the program for nine months. At this time, there is concern that a forbearance program that exceeds six months would result in a troubled debt restructuring and possibly require a charge off.

## Forbearance Process and Calculations

- **Renewal of a Forbearance Phase** – The mortgage servicer would evaluate the borrower for each forbearance phase. The evaluation would be based on the borrower’s current financial circumstances. Servicers would verify the borrower’s employment status.
- **Forbearance Phases** – Borrowers would be eligible for a maximum of three phases (each 90 days).
  - **First Phase:** Borrowers would be eligible based on verified household income. The borrower(s) would be evaluated for their ability to make payments at 31 percent of household income, provided the minimum income threshold is met (see below). If the borrower’s household income is below the threshold, the borrower could postpone mortgage payments until the second phase.
  - **Second Phase:** The borrower must begin making payments based on 31 percent of household income. Also the borrower must pass the NPV reasonable test (below) to proceed to this second phase.
  - **Third Phase:** Borrowers must continue making payments based on 31 percent of household income.
  - **Reemployment:** At any time during the process, if the borrower or borrowers become reemployed, they will be reviewed for a HAMP modification.
- **Payment/Income Threshold** – Borrowers will be expected to pay 31 percent of household income during the forbearance period. However, if 31 percent of household income is less than \$300, guidelines would suggest no payment is required during the first phase of the forbearance. All borrowers in the forbearance plan must begin making payments by the second phase.
- **NPV and Pay Assumptions:** The NPV reasonability test would consist of the following steps:
  - Use 75 percent of the borrower’s total household income as a proxy for expected future income.
  - Determine 31 percent of this number.
  - Determine principal and interest (P&I) portion of the 31 percent (subtract tax, insurance and HOA or condo fees).
  - Determine the interest rate that would apply to achieve this payment assuming the current balance (assume no forbearance and assume full amortization with no term extension). If the rate calculated is equal to or greater than the rate in the table below, the servicer would extend forbearance. If the rate is lower, the forbearance period would end.

<u>LTV</u>	<u>Rate</u>
Below 90	Forbearance should not be extended
90-94	3%
95-99	2.5%
100+	2%

- **Troubled Debt Restructuring (TDR)** – Negative TDR implications to the lender as a result of extending the forbearance period would allow the servicer/lender not to extend the forbearance period at their option.
- **Modification** – Most borrowers on forbearance plans would be eligible for HAMP modifications at the end of the forbearance period provided they meet the other HAMP eligibility criteria (NPV, DTI greater than 31 percent). However, in the event that the borrower(s) new income results in a debt-to-income ratio (based on payments using capitalized arrearages, taxes, insurance advances and foreclosure fees) less than 31 percent, the servicer could either enter into a repayment plan or modify the mortgage without reduction of interest rate or extension of term.

#### Other Details

- **Fees and Balances** – Late fees would be prohibited from accruing while the borrower is under this forbearance plan.
- **Foreclosure Costs** – Foreclosure costs and fees may be capitalized in the modification.
- **Foreclosure Sale** – No foreclosure sale can occur during forbearance period.

#### Eligibility Parameters

- **Payment History** – A borrower may be current or delinquent to participate but at least one borrower on the debt/mortgage must be unemployed.
- **Household Income** – Household income shall be used as the basis of evaluating the borrower for forbearance, the minimum payment, and final HAMP modification.
- **Involuntary Unemployment** – The borrower(s) must be unemployed and the unemployment temporary in nature. Unemployment must be demonstrated to be involuntary.
- **Owner Occupied** – The unemployed borrower(s) must be the occupant(s) of the mortgaged dwelling and an obligor on the note/mortgage.
- **Seek Employment** – The borrower(s) must agree to actively seek employment during the forbearance and to immediately notify the lender when the borrower(s) employment status changes.
- **Savings** – Verification of liquid assets is required before entering into the second phase.
- **Unemployment Benefits** – Borrowers must apply for unemployment benefits when eligible. Borrowers must have nine months of unemployment available to be eligible for nine months of forbearance.

# # #