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MORTGAGE BANKERS ASSOCIATION

May 1, 2020

Office of Housing  
Department of Housing and Urban Development  
451 7th Street SW  
Washington, D.C. 20410-8000

**RE: *Mortgagee Letter 2020-06: Loss Mitigation Options for Single Family Borrowers Affected by the Presidentially-Declared COVID-19 National Emergency in Accordance with the CARES Act***

Ladies and Gentlemen,

The Mortgage Bankers Association (MBA)<sup>1</sup> appreciates the opportunity to offer comments on the Federal Housing Administration's (FHA) Mortgagee Letter 2020-06: Loss Mitigation Options for Single Family Borrowers Affected by the Presidentially-Declared COVID-19 National Emergency in Accordance with the CARES Act (ML 2020-06). The industry applauds FHA's quick release of the COVID-19 National Emergency Standalone Partial Claim (Emergency Partial Claim) which allowed servicers to better communicate post forbearance options to FHA borrowers requesting CARES Act forbearance assistance. Below we raise a couple of issues that our members raised as needing additional clarification.

The COVID-19 pandemic has resulted in an unprecedented number of borrowers seeking forbearance assistance. The ability to quickly assist borrowers exiting forbearance by offering multiple loss mitigation options will be critically important. Given the unprecedented scale of this pandemic, we also urge FHA extend its Disaster Loan Modification as a streamlined option for borrowers who are not be able to be brought current through the Emergency Partial Claim, including borrowers that have already exceeded the statutory maximum Partial Claim limits available for their loan. We also urge

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<sup>1</sup>The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,300 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, credit unions, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's website: [www.mba.org](http://www.mba.org).

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FHA to extend Formal Forbearance repayment periods beyond six months for borrowers who prefer this option but need a longer period of time to make the payments affordable.

Finally, we urge FHA to consider providing optional, alternative programs to its current Partial Claims process to allow for faster processing of claims and earlier recovery of servicer advances. Two alternatives have been circulated within the industry that seek to minimize the administrative burdens associated with the current partial claim process. We urge FHA to strongly consider them. One would bypass the partial claim process by treating arrearages as a non-interest bearing recoverable advance balance, the other would permit servicers to recover taxes and insurance advances through a partial claim process on a monthly basis similar to the Fannie Mae 571 process. While the details of both proposals are still being worked out, we support the direction they seek to take and urge FHA to give them both serious consideration. However, recognizing that the unique and fluid nature of this crisis, we would urge FHA to make participation in these alternatives voluntary for those willing and able to make the operational necessary.

*Requests for Clarification*

We appreciate FHA taking prompt action in the release of ML 2020-06 to align FHA procedures with the recently passed CARES Act. While the Mortgagee Letter goes far to provide borrower protections and additional options during this unprecedented time, it raises some numerous questions regarding its execution, primarily related to the COVID-19 Emergency Standalone Partial Claim Option. Additionally, guidance and clarity is welcome on issues highlighted by the recently released FHA COVID-19 Question and Answer Document and FHA procedures that have been impacted by the COVID-19 pandemic.

1. ML 2020-06 Issues for Clarification

- Please confirm that a borrower who received an FHA-HAMP Modification in the last 24 months is not disqualified from receiving an Emergency Partial Claim. Similarly, please confirm borrowers who receive an Emergency Standalone Partial Claim will not be disqualified for a future FHA-HAMP Modification in the next 24 months.
- The ML directs mortgagees to “evaluate any Borrower not brought current through a COVID-19 National Emergency Standalone Partial Claim Option’ for other Loss Mitigation Home Retention Options and Home Disposition Options.” The ML further states that “Borrowers who are Delinquent due to a forbearance received following a COVID-19 National Emergency Declaration are deemed to satisfy the eligibility requirements for FHA Loss Mitigation Home Retention and Home Disposition Options.” We ask FHA to clarify the italicized language by delineating the specific eligibility requirements that are deemed satisfied.

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- While the COVID-19 National Emergency Standalone Partial Claim program is an important tool to assist borrowers recover financially, the administrative burden in administering the partial claims will be significant. In particular, servicers must prepare documents, obtain required signatures, record and transmit to FHA the required Subordinate Note, and Subordinate Mortgage. We urge FHA to confirm that servicers are eligible to receive the standard Partial Claim incentive fees and reimbursement of recording fees associated with the administration of these plans.

## *2. FHA FAQ on Automatic Extensions*

Section D (Servicing and Loss Mitigation) includes the following question and answer:

Q: “Is FHA providing an automatic extension to foreclosure deadlines following the expiration of this moratorium?”

A: “Yes. FHA is providing mortgagees an automatic 60-day extension following the moratorium expiration date to commence or recommence foreclosure action or evaluate the borrower under HUD’s Loss Mitigation Program.”

This is inconsistent with the current Handbook guidance which provides for a 90 day extension of time following expiration of the period of time where foreclosure is prohibited by state law, federal law, or Presidentially Declared Major Disaster Area. As the COVID-19 moratorium meets all three of those requirements, we request FHA revise the answer to this Q&A to reflect a 90 day extension instead of 60 days.

## *3. Additional Covid-19 Requested Feedback*

- In recent weeks, servicers have experienced delays in conveying properties to HUD in cases where foreclosure sales and evictions occurred just prior to the onset of the COVID-19 crisis. Specifically, servicers have experienced delays in completing required repairs in specific locations due to “shelter in place” requirements. Further, servicers may experience a delay or inability to record the appropriate deed associated with conveyance to HUD. We ask that HUD apply leniency in these situations when inevitable delays are outside of the mortgagee’s control.
- Given the increased amount of delinquencies as a result of the COVID-19 forbearance plans, will HUD make any changes to its Tier Ranking System scores and calculations?

## *Conclusion*

MBA appreciates the opportunity to comment on ML 2020-06. Should you have questions or wish to discuss this issue further, please contact Darnell Peterson at 202-557-2922 or

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via email at [dpeterson@mba.org](mailto:dpeterson@mba.org) or Sara Singhas at 202-557-2826 or via email at [ssinghas@mba.org](mailto:ssinghas@mba.org).

Sincerely,

A handwritten signature in cursive script, appearing to read "Pete Mills".

Pete Mills  
Senior Vice President  
Residential Policy & Member Engagement  
Mortgage Bankers Association