

# short·sales *redefined:* *a new look to real estate*



The SSR HAMP and HAFA Overview of the

October 21<sup>st</sup>, 2010

&

January 26<sup>th</sup>, 2010

QUARTERLY SIGTARP REPORT'S

THE GOVERNMENT LOAN MODIFICATION PROGRAMS  
HAMP AND HAFA

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## **INTRODUCTION**

The government's loan-modification programs, called HAMP, and its short sale program, called HAFA, have been largely criticized for failing to reach or help borrowers in default. Here are the numbers and a little background with data provided directly from the government itself: The Special Inspector General of the TARP funds (The Troubled Asset Relief Program). The Special Inspector General is responsible for providing oversight & transparency on the TARP program.

**HAMP:** The Home Affordable Modification Program – Only 36% of the total borrower's who applied for a Loan Modification have been successful.

**HAFA:** The Home Affordable Foreclosure Alternative Program - As of 9/30/2010 approximately \$1.6 million in TARP funds had been paid to investors, borrowers, and servicers in connection with a total of 342 short sales or deeds-in-lieu completed under HAFA. This equates to \$4,678.36 paid out by the government per transaction.

According to the Congressional Oversight Panel, as of 12/31/2010 approximately 661 short sales have been processed under HAFA.

**TARP:** (Troubled Asset Relief Program): As of 9/30/2010 Allocated \$46 billion dollars for all Homeowner Support Programs under MHA (Making Home Affordable). Only \$12 billion of the \$46 billion allocated have been spent according to the January 26<sup>th</sup>, 2011 SIGTARP report.



## **HAMP INTRODUCTION & BACKGROUND**

HAMP, as known as, The Home Affordable Modification Program, has been a disappointment. Before HAMP in 2007 George H. Bush attempted a loan modification program that failed also, called the HOPE NOW Alliance. This program was run by the banks and had about the same end result as the current HAMP program

Overall, HAMP was riddled with excessive red tape and backbreaking inflexibility from the beginning. This program was created among several others under the Making Home Affordable Program, **MHA**, on February 18, 2009, which as been allocated a total of **\$46 Billion Dollars as of 9/30/2010.**

According to the January 26<sup>th</sup>, 2011 SIGTARP Report to Congress only \$12 billion is expected to be spent on the HAMP program because of “**diminished expectations for participation in TARP’s housing programs**”.<sup>ii</sup>

The following quotation was famously originally stated has one of HAMP's goals for struggling homeowners *"help as many as three to four million financially struggling homeowners avoid foreclosure by modifying loans to a level that is affordable for borrowers now and sustainable over the long term"*.<sup>i</sup>

According to the January 26<sup>th</sup>, 2011 SIGTARP report, TARP's goal of "preserving homeownership"<sup>ii</sup> has had "perhaps the most devastating consequences" for homeowners. It states that the program has been beset by problems from its inception, and that continued improvements in the program have proved to be ineffective at obtaining its originally stated goals. This same conclusion is also evident in the October 26<sup>th</sup>, 2010 SIGTARP report as well. In deed as stated above, the only "good news" for this program is the fact that it will not spend the full amount of monies originally allocated for it. However, for the hundreds of thousands of struggling homeowners who have attempted a loan modification with no success and in worse shape financially than when they began the program this is hardly "good news".

The amount of participants entering the program has increasingly been dropping since its inception. At the same time in 2010, the banks are on track to foreclose on almost 1.2 million homes by the end of the year.<sup>iii</sup> This is a record-breaking amount of foreclosures. Only 18,000 homeowners attempted to participate in the program in August of 2010. Too often many borrower's who have been attempting to work through the program and qualify for the loan

modification find out that they didn't qualify for it after months of submitting paperwork and waiting. For those borrower's who were in the "trial run period" of the loan modification and then were rejected, the banks will assess late fee's and demand unpaid payments be made immediately. In many cases the homeowner's are in a much tougher dilemma then when they started the loan modification program.

The HAMP program works like this; Lenders get incentives from the government to help borrowers avoid foreclosure by reducing their mortgage payments. This is done by lowering the interest rate and extending the term of the loan. The borrower must make at least 3 "trial" payments before their modification can become permanent. This is called the "trial period" where the loan modification is only temporally in place.

HAMP was envisioned to be a "shared partnership" between Government and Investors to bring distressed borrower's 1<sup>st</sup> Lien monthly payments down to an "affordable level" (defined as 31% of the borrower's monthly gross income). The servicers would receive incentives for doing the modification, like \$1,000 for each permanent modification completed under HAMP. There are other payments that can equate up to \$1,000 per year for up to 3 years if loan modification is a success, for example. If the payments are reduced by at least 6% even more incentives are available to the servicer. However, these incentives are not enough to get enough servicers on board to

approve more loan modifications. According to the Government Report the numbers appear to show exactly that.

### **HAMP PROGRAM STATISTICS**

- As of 9/30/2010: A total of **1,369,414** borrowers attempted loan modification with either a NON-GSE or GSE (Government Sanctioned Enterprise, ie... Freddie Mac, Fannie Mae)
- As of 12/31/2010: A total of **522,000** borrowers actually qualified and successfully received a Loan Modification. Approximately, 238,000 of those Loan Mod's were funded by and attributable to TARP. The remaining were funded outside of TARP by the GSE's. (Freddie & Fannie)
- As of 9/30/2010: A total of **28,762** of these successful Loan Modifications, or, approx **5%** went into default and were cancelled.
- As of 9/30/2010: **173,592** mortgages were in the "trial" period for qualification in becoming a successful loan modification. (*The trial period is supposed to last 3 months, and is the time period where the borrower demonstrates to the bank the ability to make the newly modified payments*).
- The default rate for successfully completed Loan Modifications is 19.6% for 60-day delinquencies, and 14.9% for 90-day delinquencies.

- As of 9/30/2010: **76,502** of the **173,592** currently in the “trial” period for obtaining a loan modification have lasted 6 months or more.
- 12/30/2010: A combined total of **792,000** trial and permanent modifications have been cancelled, with more than **152,000** trial modifications still in “limbo”.

Finally, if HAMP continues at this pace the Congressional Oversight Panel (COP) estimates that HAMP will result in only 700,000 to 800,000 effective permanent modifications.<sup>ii</sup>

## **REMARKABLE QUOTATIONS & FACTOIDS**

1. *In many cases just participating in the program borrower’s could end up “worse off than before they participated”<sup>iv</sup>, quoted from Neil Barofsky*

The Special Inspector General in charge for overseeing the Troubled Asset Relief Program, TARP, which funds HAMP. (Oct. 26<sup>th</sup>, 2010 SIGTARP Report)

2. *The program (referring to HAMP), “has undoubtedly put people into foreclosure”. Neil Barofsky,*

- Most borrowers have been unable to qualify for the program because they either make too little money to qualify, or, they have missed a payment during the trial period. Also, in many cases the banks haven’t been able to collect and process the necessary paperwork leading too delayed responses and prolonged trial periods.

- The HAMP program has mostly helped the banks hold back the some of the shadow inventory they are holding back from foreclosure, estimated to be at more than seven million loans in some state of foreclosure.
- **Top 3 Reasons** for a borrower not to be able to get a Loan Modification:
  1. Failure to make payments
  2. Failure to provide necessary financial documents.
  3. Borrower's failed to meet qualification guidelines.

### **Home Affordable Foreclosure Alternatives: HAFA**

HAFA evolved out of the HAMP program once the Treasury Department realized that a Loan Modification was not the only way to assist struggling homeowners. In many cases, homeowner's who where underwater with their properties and mortgages simply needed to sell their properties. From the beginning HAFA has been under-funded & in desperate need re-structuring because red tape, under-funding, and bureaucratic rules, which like in the HAMP program actually worked against the interest of struggling homeowners. In

According to the Congressional Oversight Panel (COP), roughly 661 short sales have been processed since this programs inception. Such low numbers prompted the Treasury Department to take action at eliminating and/or changing some of these rules, which were

actually holding back the program from helping homeowners. One of the major holdback's to the program was a rule which required the borrower needed their monthly mortgage payment to exceed a 31% debt-to-income ration in order to qualify for the program. This disqualified many applicants interested and in need of HAFA.

HAFA, The Home Affordable Foreclosure Alternatives, enables borrowers to pursue a "short sale, or, "deed-in-lieu of foreclosure" in cases where a borrower can meet some but all of the HAMP criteria for a loan modification. If the borrower uses HAFA, the 1<sup>st</sup> lien servicer forfeits the ability to pursue a Deficiency Judgment against the borrower. The program went into effect on April 5, 2010.

The program allows for various incentives for the borrower's, servicers, and investors to participate in the program. For example, borrowers may receive \$3,000 for short selling or doing a deed-in-lieu of their property. A servicer can receive up to \$1,500 for each successful transaction also. If the property only has a 1<sup>st</sup> mortgage, or a 1<sup>st</sup> and a true 2<sup>nd</sup> Mortgage HAFA can work if your seller can get into the program. This becomes the major obstacle in this scenario, since the program is not funded adequately only a limited number of short sale transactions have been run through it.

The major problem with HAFA is how it handles 2<sup>nd</sup> Lien positions especially if it's a Home Equity Line of Credit, HELOC. Currently, the second lien position must agree to participate in HAFA first. Secondly, the second lien position must agree to accept up to the

allowable 6% of the outstanding loan balance, capped off for a max of \$6,000. However, this does not guarantee a full satisfaction of debt only a lien release. Therefore, the full satisfaction of debt must be negotiated as part of the deal and you will have a total of \$6,000 to work with to accomplish that. In many cases, in order to settle out a HELOC it will require more than the capped off amount of \$6,000 for the full satisfaction of debt. Under the current rules no other cash contributions would be allowed under HAFA. This is where much of the problem is when a 2<sup>nd</sup> Lien, such as a HELOC, is part of a HAFA deal.

- The Treasury Department is to begin reporting official HAFA numbers in the first quarter of 2011. Up to this point, HAFA figures have only been obtained by the Congressional Oversight Panel (COP), and limited information provided to the panel by the Treasury.
- The COP estimates that HAFA produced 661 total short sales during all of 2010.
- As of **September 30, 2010**, approximately **\$1.6 million** in TARP funds had been paid to investors, borrowers, and servicers in connection with a total of **342** short sales or deeds-in-lieu completed under HAFA. This equates to \$4,678.36 paid out by the government per transaction.

## **CONCLUSION**

Unfortunately, the loan modification & short sale programs the government created to assist in heading off the foreclosure crisis have been disappointing for a majority of the homeowners who have attempted to qualify for them. Moving forward the government may or may not get it right in their efforts to assist in the foreclosure mess we are in. By any logical standard the government will acknowledge these failures, as stated in both of the SIGTARP reports cited in this piece, and re-evaluate the programs and create a new strategy.

Any new strategy implemented should consist of input from real estate practitioner's and borrowers whom are on the front lines of the housing crisis. The reforms required are simple and more procedural in nature, and huge sums of funding from the American taxpayer are not necessary to solve these problems.

The goal of this report is to inform both real estate practitioner's and political forces in Washington DC that reform is desperately needed in both HAMP & HAFA in order to promote the interests of borrowers across the country. Promoting the interests of struggling borrowers is crucial for the recovery of the U.S. housing market.

## **Bibliography**

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<sup>i</sup> Treasury, “Home Affordable Modifications Program: Overview,” [www.hmpadmin.com/portal/programs/hamp.html](http://www.hmpadmin.com/portal/programs/hamp.html), accessed 3/1/2010.

<sup>ii</sup> SIGTARP Quarterly Report To Congress, January 26<sup>th</sup>, 2011

<sup>iii</sup> Associated Press, “U.S. Home Foreclosures Hit New Record, But Many Face Challenge”, 10/14/2010

<sup>iv</sup> The Wall Street Journal, “Foreclosure Crisis, Part 2: Modifications”, Jessica Silver-Greenberg, 10/6/2010

The material cited for this mini report on the Government’s Loan Modification Programs are contained in the October 26, 2010, “Quarterly Report to Congress”, by SIGTARP; The Office of the Special Inspector General for the Troubled Asses Relief Program, & the January 26<sup>th</sup>, 2011 Quarterly Report.