U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

April 11, 2013

Mortgagee Letter 2013-11

To — **All FHA Single Family Approved Mortgagees, Single Family Servicing Managers**

Subject — **Additional Guidance for the Origination and Servicing of FHA-insured Loans in Presidentially-Declared Major Disaster Areas and Specific Requirement for Hurricane Sandy Affected Communities.**

Purpose and Effective Date

This Mortgagee Letter amends guidance provided in Mortgagee Letters 2012-23 and 2012-28 for the origination and servicing of FHA-insured loans in Presidentially-Declared Major Disaster Areas (PDMDA). This Mortgagee Letter is effective immediately.

Servicing Actions – Disaster Areas

As indicated in Mortgagee Letter 2012-23, HUD requires a moratorium on foreclosures of properties in Presidentially-Declared Major Disaster Areas (PDMDAs) for a ninety (90) day period beginning on the date of each Disaster Area Declaration. The moratorium applies to the initiation of foreclosures AND foreclosures already in process. As necessary, HUD may communicate further specific guidance for extension of moratorium periods for individual disasters.

During foreclosure moratorium periods, HUD expects servicers to make every effort to communicate with and assist affected borrowers in rebuilding or repairing damaged properties, minimizing delinquencies and retaining homeownership.

In order to determine the appropriate course of action, the servicer must review the individual facts and circumstances of each case and take into consideration the adverse impact that property damage, uninsured losses, curtailment of income and extraordinary expenses related to the disaster are having on the ability of the borrower(s) to make on-time mortgage payments. When appropriate, servicers must provide borrowers with forbearance and other loss mitigation alternatives as specified in this Mortgagee Letter, Mortgagee Letter 2012-22, and other applicable FHA policy guidance.

Forbearance Options for Disaster-impacted Borrowers

Before considering impacted borrowers for a permanent solution utilizing one of FHA's Loss Mitigation Home Retention Options, the servicer must first evaluate the borrower for a Forbearance, which allows for one or more periods of reduced or suspended payments without specific terms of repayment.

Borrowers with a mortgaged property or place of employment located within designated disaster areas may be offered forbearance relief consistent with the following:

- Informal Forbearances do not need to be in writing. Informal Forbearances in PDMDAs are effective for a three-month period. If the moratorium is extended, a new informal forbearance period may be granted in applicable areas;
- Formal Forbearances must be in writing. Formal Forbearances pertaining to PDMDAs that do meet the requirements under Mortgagee Letter 2012-22: (i) cannot exceed the estimated time to repair the property as supported by a contract or repair estimate; (ii) can be granted for periods of up to twelve (12) months while borrowers are pursuing home repairs and resolving verifiable financial difficulties related to the disaster; and
  (iii) the total accumulated arrearages on the loan may not exceed the equivalent of twelve (12) months of principal, interest, taxes and insurance (PITI) during the forbearance period.

Loss Mitigation Owner-Occupant Requirement

A borrower shall not be denied any loss mitigation option solely for failure to occupy a mortgaged property if the mortgaged property is located within a PDMDA, and the borrower occupied the mortgaged property as their principal residence immediately prior to the disaster, has not exceeded the equivalent of twelve (12) months of principal, interest, taxes and insurance (PITI) in total accumulated arrearages, and intends on re-occupying the mortgaged property upon restoration of the property to habitable condition.

Loan Modification without a Financial Evaluation

Borrowers who receive Informal or Formal Forbearances based solely on location of their mortgaged property or place of employment within a PDMDA, shall at the conclusion of the forbearance period, be offered rate and term modifications without the standard financial evaluation required under Mortgagee Letter 2012-22 subject to the following conditions:

- The loan was current or less than thirty (30) days past due as of the date of the applicable Disaster Declaration;
- The mortgagee performs a Verification of Employment (VOE) that the mortgagor(s)' employment status is the same as prior to the disaster;
- Home damages have been repaired and the dwelling is owner-occupied;

- Total monthly mortgage payment (PITI) on the modified loan is less than or equal to the existing payment on the FHA-insured loan; and
- Borrower(s) successfully complete a three-month Trial Payment Plan;

The terms of such modifications shall be as follows:

- Accumulated arrearages of delinquent accrued interest and eligible unreimbursed servicer advances, fees and costs chargeable to the loan shall be capitalized into a modified loan balance;
- Late fees may not be capitalized and must be waived if the borrower satisfies all conditions of the trial payment plan;
- The term of the loan shall be extended to 360 months from the modification effective date; and,
- The interest rate shall be set at the "Market Rate" per Mortgagee Letter 2012-22 or future successor Mortgagee Letter(s). Currently, Market Rate is defined as a rate that is no more than 50 basis points greater than the most recent Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) Rate for 30-year fixed-rate conforming mortgages (US average), rounded to the nearest one-eighth of one percent (0.125%), as of the date a Trial Payment Plan is offered to a borrower.

Required Evaluation for other Loss Mitigation Home Retention Options

Following evaluation for and completion of approved Forbearances, the servicer must evaluate eligible borrowers for other Loss Mitigation Home Retention Options in accordance with Mortgagee Letter 2012-22 and other applicable FHA policy guidance. Borrowers who meet the following criteria must be evaluated for those additional Special Forbearance, Loan Modification, and FHA-HAMP alternatives:

- Borrowers who are not eligible for the "Loan Modification without a Financial Evaluation" Option;
- Borrowers eligible for "Loan Modification without a Financial Evaluation" who are experiencing a continuation of lower income or higher living expenses following the disaster; and
- Borrowers eligible for "Loan Modification without a Financial Evaluation" who do not successfully complete the required Trial Payment Plan.

Borrowers that do not currently have an increase in living expenses but are delinquent due to a Forbearance received as a result of the PDMDA are deemed to satisfy the increase in living expenses eligibility test for purposes of Mortgagee Letter 2012-22.

In all cases, home damages must be repaired and the dwelling owner-occupied before any Loan Modification may be completed.

Refinances – Effect of Disaster Forbearance on Payment History and Maximum Insurable Balance

In accordance with HUD Handbook 4155.1, Mortgage Credit Analysis for *Mortgage Insurance One- to Four-Unit Mortgage Loans*, for the purpose of determining the acceptability of the borrower's payment history for any FHA refinance, when a borrower has withheld mortgage payments pursuant to either a Formal or Informal Forbearance drafted under this Mortgagee Letter, FHA will not consider those payments to be "late" because the payments were not "due" during the disaster relief period. Mortgagees must continue to analyze the borrower's payment history for the period prior to, and, where applicable, following, the Forbearance period to determine if the borrower's payment history meets FHA refinancing program requirements.

For Streamline Refinances, the maximum insurable balance of the refinancing mortgage may include the unpaid principal balance, plus up to sixty (60) days of interest and two (2) months annual Mortgage Interest Premium (MIP), less Up-Front MIP refund, if any, plus the new Up-Front MIP (UFMIP). If the borrower's forbearance plan results in greater than sixty (60) days of interest due on the current loan, the borrower will need to pay the excess by the closing date of the refinance.

Suspension of Reporting to Credit Bureaus

Servicers should suspend reporting of delinquencies to credit repositories for borrowers who are granted disaster related mortgage payment relief and are otherwise performing as agreed, unless such reporting is required for a loan modification.

Waiver of Late Charges

Servicers should waive late charges as long as the borrower is on a forbearance plan or paying as agreed on a loss mitigation option.

Monitoring of Repairs to Substantially Damaged Homes

Servicers must take appropriate actions to ensure that repairs to Substantially Damaged Properties comply with the applicable building elevation standard.

As defined in the National Flood Insurance Program (NFIP) regulations at 44 CFR § 59.1, a building is considered to be "Substantially Damaged" when "damage of any origin is sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred." Homes in flood hazard areas that have been Substantially Damaged by a Disaster Event must have the lowest floor (including basement) elevated to or above the applicable base flood level that has been established on a Flood Insurance Rate Map (FIRM) adopted by the Federal Emergency Management Agency (FEMA).

Compliance with any higher applicable building elevation standard adopted by the State or Local Government is also required.

Information regarding applicable building elevation standards for communities affected by Hurricane Sandy is provided below.

Compliance with Post-Storm Building Elevation Standards for Communities affected by Hurricane Sandy

The Federal Emergency Management Agency (FEMA) has issued Advisory Base Flood Elevations (ABFEs) to show current flood risks for certain communities affected by Hurricane Sandy. These ABFEs may be revised later to Preliminary FIRMs and eventually, revised FIRMs.
For more information on FEMA ABFEs, see links provided below:

FEMA ABFE webpages
http://www.region2coastal.com/sandy/abfe
http://www.region2coastal.com/faqs/advisory-bfe-faq

FHA Policy for Proposed Construction and Proposed Repair of Substantially Damaged Properties for communities affected by Hurricane Sandy

For new FHA-insured mortgages as well as substantial rehabilitation on existing FHA mortgages, FHA requires that for Proposed Construction and Proposed Repair of Substantially Damaged Properties (damaged by Hurricane Sandy) located in a PDMDA, including but not limited to designated FEMA Special Flood Hazard Area (SFHA), the lowest floor be elevated at or above the Base Flood Elevation based on the most recent FEMA data, plus one foot of freeboard. The most recent FEMA data includes Advisory Base Flood Elevations (ABFEs) or Preliminary Flood Insurance Rate Maps (P-FIRMs), when available. However, in no event shall the lowest floor be below the Base Flood Elevation on the current adopted Flood Insurance Rate Map.

FHA requires compliance with the highest local building elevation standard applicable in that jurisdiction.

Construction Definitions

Type of Construction	Definition
Proposed Construction	Construction of the dwelling has not begun.
Substantially Damaged Properties	Cost of repairs/reconstruction to existing home is equal to or greater than 50% of the value of the structure before the damage occurred, i.e., 50% of the assessed value of the property less the land value.
Advisory Base Flood Elevation (ABFE)	The set elevation of surface water resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year, set in Advisory Base Flood Elevations issued by FEMA pending issuance of a Preliminary Flood Insurance Rate Map.

ABFE + 1	A standard requiring that the lowest floor of a residential structure, including basement, be elevated at least one foot above the base flood level under the latest FEMA data, including Advisory Base Flood Elevations, Preliminary Flood Insurance Rate Maps (P-FIRMs), or (in the absence of ABFEs or P-FIRMs) the adopted Flood Insurance Rate Map.
Freeboard	An additional amount of height above the BFE used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or flood proofed.

Letters of Flood Map Amendment or Revision in PDMDA from Hurricane Sandy

If…	Then…
a Proposed Construction or Proposed repair of substantially damaged property is located within a FEMA Special Flood Hazard Area (SFHA) and *no* Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) removes the property from the SFHA,	the lowest floor (including the basement) of the residential building, and all related improvements/equipment essential to the value of the property, should be built in compliance with the ABFE +1 standard at a minimum.

Inspection Requirements for Properties Subject to Compliance with ABFEs

If…	Then…
the property is located in a jurisdiction that has a building code, issues permits, conducts inspections, and has adopted ABFEs,	no additional inspections are required to verify compliance with the ABFE+1 standard.
the property is located in a jurisdiction that has a building code, issues permits and conducts inspections, but has not adopted ABFEs,	A surveyor's certification that the lowest floor (including the basement) of the home and all related improvements/equipment essential to value are built in compliance with the ABFE +1 standard at a minimum.

Information Collection Requirements	The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0583. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.
Questions	Any questions regarding this Mortgagee Letter may be directed to the HUD's National Servicing Center at (877) 622-8525. Persons with hearing or speech impairments may reach this number by calling the Federal Information Relay Service at (800) 877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.
Signature	Carol J. Galante Assistant Secretary for Housing-Federal Housing Commissioner