HUD’s Loss Mitigation Program
Imminent Default:
FHA Borrower is:

- Either current or less than 30 days past due on their mortgage, **and**
- Experiencing a significant reduction in income or some other hardship that will prevent them from making their next mortgage payment.
Loss Mitigation for Imminent Default Cause and Documentation

**Cause:**
Mortgagor must be able to document the cause of the imminent default such as through:

- Reduction in or loss of income that was supporting the mortgage loan, or
- Change in household financial circumstances.

**Documentation:**
Mortgagee must document its servicing system with the basis for determination and the Mortgagor’s financial condition qualifying them for imminent default.

*Mortgagee Letter 2010-04, pp. 1-2*
Loss Mitigation for Imminent Default Options

Forbearance Agreement:
- Informal Agreement
- Formal Agreement

FHA- HAMP:
- Mortgagor must successfully complete a 4 month trial modification period.

All other Loss Mitigation Options are **NOT** available for imminent default cases.
General Program Requirements

**Option Priority**

- Special Forbearance
- Loan Modification
- Partial Claim
- FHA’s Home Affordable Modification
- Preforeclosure Sale
- Deed-In-Lieu of Foreclosure

Mortgagee Letter 2000-05, pg. 10; 2009-23, pg. 3
General Program Requirements
Owner-Occupancy

- Required for retention options.
- Allowable exception on Preforeclosure Sale or Deed-In-Lieu if:
  - rental does not exceed 18 months,
  - property was not purchased as investment, or
  - the need to vacate is related to the reason for default.

Mortgagee Letter 2000-05, pg. 8; 2008-43, pg. 2
Special Forbearance Option
Special Forbearance Agreements

**Definition:**
- Written agreement,
- Reinstates a loan that is at least 3 months unpaid but not more than 12 months delinquent PITI,
- Provides more relief than an informal or formal forbearance plan,
- Does not change the original loan terms,
- Provides failure options, and
- No maximum term.
A structured Agreement that allows a Mortgagor to repay a delinquent loan over time.

Agreement must provide for relief not typically offered with an informal or formal forbearance plan.

Agreement may include an initial period for financial recovery followed by a payment schedule based on the Mortgagor’s ability to pay.
A Type II Special Forbearance Agreement combines a short-term Special Forbearance Agreement with either a Loan Modification or a Partial Claim.

Late fees are not to be assessed during the SFB Type II.

Require a minimum of 3 monthly payments.

Mortgagees may file for the incentive fee associated with the option used to cure the default, when the loss mitigation action is finalized.
Loan Modification Option
Loan Modification

- A permanent change in the terms of a Mortgagor’s loan.
  - Interest Rate shall be reduced.
  - Loan Term extended to 360 months.
- Capitalization of delinquent PITI.
- Legal fees and related foreclosure costs may be capitalized.
- Allows a loan to be reinstated and results in a payment the Mortgagor can afford.

Mortgagee Letter 2000-05, pg. 18; 2008-21, pg. 2; 2009-35, pg. 2
Loan Modification
Allowable Provisions

- Must result in a fixed interest rate.
- Must fully reinstate the loan.
- Reduce the Note Rate to the current Market Rate.
- Re-amortize the total unpaid amount due over a 360 month period.
- Maximum allowable rate increase is 50 basis points above the current Freddie Mac Weekly Primary Mortgage Market Survey Rate for 30-year fixed-rate or the Federal Reserve Board Weekly Rate.

Partial Claim Option
Partial Claim

- A promissory note and subordinate mortgage to cover the advance for delinquent mortgage payments is issued in the name of the Secretary of HUD.
- Mortgagee may also include legal fees and foreclosure costs related to a canceled foreclosure.
- Mortgagee advances funds on behalf of the Mortgagor in the amount of the Partial Claim advance to reinstate the delinquent loan.

Mortgagee Letter 2003-19, pg. 1 ; 2008-21, pg. 2
Partial Claim
Mortgagor Qualifications

- Have overcome the cause of default.
- Have sufficient income to resume monthly mortgage payments.
- Insufficient surplus income to repay delinquency through a Special Forbearance or Loan Modification.
- Mortgagor must be owner-occupant, committed to continuing occupancy of the property as primary residence.
- Option cannot be used to reinstate a loan prior to sale or assumption.
Making Home Affordable Program: FHA’s Home Affordable Modification Loss Mitigation Option (FHA-HAMP)
FHA-HAMP combines a Partial Claim with a Loan Modification

- Eligible FHA Mortgagors are those that are:
  - Facing Imminent Default, or
  - Currently in Default

- Total Partial Claim, including arrearages of up to 12 months Principal, Interest, Taxes, and Insurance (PITI) plus legal fees and costs related to a canceled foreclosure action (maximum over life of loan), and deferred principal, may not exceed 30 percent of the unpaid principal balance as of the default date.

Mortgagee Letter 2009-23 pp. 1-2; 2010-04 pg. 1
FHA-HAMP combines a Partial Claim with a Loan Modification

- Imminent Default Mortgagor - must first complete a 4 month trial plan; whereas a Defaulted Mortgagor - must first complete a 3 month trial plan with a payment equal to the monthly PITI to be required on the modified loan (must be a fixed rate mortgage).

- If trial plan payments are not made in a timely manner, the Mortgagor is no longer eligible for FHA-HAMP.

- Interest Rate shall be reduced.

- Loan Term extended to 360 months.

*Mortgagee Letter 2009-23, pp. 1-2; 2009-35, p. 2; 2010-04, pg. 2*
FHA-HAMP
Debt to Income Ratios

- **Front-End Ratio** – The total first mortgage payment (PITI) divided by the Mortgagor’s gross monthly income, shall be 31%.

- **Back-End Ratio** – The total first mortgage payment plus all recurring monthly debt divided by the Mortgagor’s gross monthly income, shall not exceed 55%.
Preforeclosure Sale Program
Preforeclosure Sale Program (PFS)

- Allows Mortgagor in default to sell the property and use the sale proceeds to satisfy the mortgage debt, even if the proceeds are less than the amount owed.

- PFS is unavailable if a property has been abandoned or Mortgagor has ability to pay the debt.

- The PFS must be an outright sale of the property.

- Home Equity Conversion Mortgages (HECM) are not eligible for the PFS Program. [HECMHelp@hud.gov](mailto:HECMHelp@hud.gov)

Mortgagee Letter 2008-43, pg. 5
Deed-in-Lieu of Foreclosure
Deed-in-Lieu Foreclosure
Mortgagor Qualifications

- All Mortgagors named on Note must execute the Deed to convey.

- Mortgagors agree to certify compliance with program stipulations concerning property condition.

- Account must be at least 31 days delinquent when the Deed-in-Lieu is recorded.

- Title must be free and clear of all liens.

- Written Deed-in-Lieu Agreement must contain all the conditions under which the Deed will be accepted.

Mortgagee Letter 2000-05, pp. 36-38