FHA WATERFALL WORKSHEET

A User's Guide

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"Funded through the New York State Attorney General
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INTRODUCTION

The Federal Housing Administration (FHA) offers programs to help borrowers with loans in default, or in imminent risk of default, stay in their homes. FHA evaluates borrowers following a series of steps it calls a Waterfall. The rules governing eligibility are complex, and require a string of calculations on a large set of borrower data. This guide is designed to accompany the FHA Waterfall Worksheet (the "Worksheet") which will aid advocates in assessing a borrower's eligibility for FHA home retention loss mitigation options. The guide begins with background on the FHA programs, including brief descriptions of the solutions for which borrowers may be eligible. Next, the guide lists the Worksheet's suggested uses. This section is followed by a description of each input that the Worksheet requires. Finally, the guide provides a walkthrough of the Worksheet using a sample borrower.

The Worksheet is available on MFY Legal Services, Inc.'s website at

http://www.mfy.org/projects/foreclosure-prevention-project/.

BACKGROUND

FHA insures lenders against loses on home loans should a borrower default. You can check to see if a borrower has an FHA insured loan by looking at the first page of the subject mortgage, on which an FHA case number will be labeled and boxed. (In New York, mortgages are recorded and available online at http://a836-acris.nyc.gov/.) Mortgagees are required to follow FHA's servicing guidelines, including its loss mitigation standards, and failure to do so can result in the imposition of civil penalties.[1]

FHA mortgage servicing guidelines are published in the Code of Federal Regulations,[2] the HUD Handbook 4330.1, REV-5,[3] and mortgagee letters, which are on the Department of Housing and Urban Development's (HUD) website.[4] A violation of the guidance from any one of these three sources can result in retributive administrative action.[5] Generally, the mortgagee letters contain the most current guidance.

The Worksheet incorporates the latest changes to FHA loss mitigation programs as announced in Mortgagee Letter 2012-22.[6] Servicers are not required to implement the terms of this letter until March 15, 2013.[7] Given the expansion in eligibility that these changes create, it is important to begin evaluating borrowers under the new rules when determining whether there is a home saving solution.[8] Most significantly, the new rules lift the bar on loss mitigation for homeowners more than 12 months behind on their mortgages.[9] Other important changes include the elimination of the backend debt-to-income ("DTI") cap, and allowing those that defaulted on

[1] 24 C.F.R. § 203.500 (2005).
[2] Servicing Responsibilities, C.F.R. T. 24, Subt. B, Ch. II, Subch. B, Pt. 203, Subpt. C.
[3] The Handbook was last updated September 29, 1994. *Available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/4330.1.
[4] The mortgage letters can be found by visiting http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/letters/mortgagee.
[5] 24 C.F.R. §25.6(j) (2012).
[6] U.S. DEP'T OF HOUS. & URBAN DEV., ASSISTANT SEC'Y FOR HOUS., FED. HOUS. COMM'R, MORTGAGEE LETTER 2012-022, REVISIONS TO FHA'S LOSS MITIGATION HOME RETENTION OPTIONS (2012).
[7] MORTGAGEE LETTER 2013-03, EXTENSION OF IMPLEMENTATION DATE FOR MORTGAGEE LETTER 2012-22, REVISIONS TO FHA'S LOSS MITIGATION HOME RETENTION OPTIONS (2013).
[8] The revisions provided in Mortgagee Letter 2012-22 affect Mortgagee Letters 2009-23, 2002-17, and 2000-05.
[9] MORTGAGEE LETTER 2012-022, REVISIONS TO FHA'S LOSS MITIGATION HOME RETENTION OPTIONS (2012).

a Trial Payment Plan to re-apply if a change of circumstance has occurred.[10]

As is true with the Home Affordable Modification Program (HAMP), a program with which housing advocates may be more familiar, FHA evaluates borrowers using a "waterfall" (hereinafter the Waterfall).[11] This means that a borrower must be evaluated for loss mitigation options in a specific order, and once a borrower is determined to be eligible for a particular option, the evaluation stops—loss mitigation options appearing later in the Waterfall will be unavailable.

FHA begins by looking to see whether a borrower can be brought current through a repayment plan, which FHA calls an Informal or Formal Forbearance plan. If no one on the mortgage is currently employed, a Special Forbearance plan must be offered. But if instead the borrower has income, and that income is insufficient to cure the default, the borrower must be reviewed for a Loan Modification. A Loan Modification will capitalize any arrears, set the interest rate at the Market Rate, and re-amortize the loan over 30 years. The next step in the Waterfall is FHA-HAMP.[12] Within FHA-HAMP there are essentially three options: a stand-alone Partial Claim, a stand-alone Loan Modification, and a combination of the two.

A Partial Claim can be used to cover arrears,[13] legal fees and foreclosure related costs, and principal deferment. It creates a second mortgage payable to HUD, on which no interest is charged, and comes due with the first mortgage or when the borrower no longer owns the property.[14] HUD reimburses the lender for the Partial Claim, and provides an incentive payment.[15] A stand-alone Partial Claim is used to bring the mortgage current, but does not include any principal deferment.

A stand-alone Loan Modification will look exactly like the Loan Modification described

[10] *Id.*
[11] *See* MORTGAGEE LETTER 2012-022, REVISIONS TO FHA'S LOSS MITIGATION HOME RETENTION OPTIONS (2012).
[12] Just like HAMP, FHA-HAMP also requires that the loan have been originated on or before January 1, 2009. MAKING HOME AFFORDABLE PROGRAM, HANDBOOK FOR SERVICERS OF NON-GSE MORTGAGES, Ch. IV, § 2.1 Treasury FHA-HAMP (version 4.1 2012).
[13] For FHA, "arrears" means the full value of missed payments. Unlike in the case of HAMP where interest accrued and the escrow shortage constitutes arrears, here missed principal payments are included as well.
[14] MORTGAGEE LETTER 2003-19, PARTIAL CLAIMS: PROGRAM CHANGES AND UPDATES (2003).
[15] *Id.*

above—arrears capitalized, market interest rate, with the loan amortized over 30 years. The only difference between the two options is the eligibility criteria, which will be discussed in greater detail below.

An FHA-HAMP Loan Modification with a Partial Claim comes in three varieties. First, a borrower may receive a modification of the current unpaid principal balance ("UPB") under the same terms as are offered for a Loan Modification. The difference is that the arrears are put into a Partial Claim rather than capitalized, which means that the borrower's interest-bearing balance is not increased. Second, a borrower may receive a modification with principal deferment. In this scenario, a portion of the Partial Claim is used to reduce the UPB so that a borrower can achieve an affordable monthly payment. Finally, a borrower's interest-bearing principal can be increased if the Partial Claim is insufficient to cover arrears. Should this final variant result in a payment above what has been determined to be affordable, FHA will allow the modification so long as it does not result in a DTI ratio above 40%.

For FHA-HAMP loss mitigation options and Loan Modifications, a borrower must complete a trial payment plan.[16] If the borrower qualifies for the loss mitigation option on the basis of being in default, the trial period will last three months.[17] For loans that are in imminent risk of default, the trial period lasts four months.[18]

If a borrower is eligible for a particular loss mitigation option according to the terms of the Waterfall, then the mortgage servicer must offer that option. Unlike HAMP, there is no net present value (NPV) test that stands as an eligibility hurdle after the waterfall.[19]

More detail on the eligibility criteria and outcomes of the home retention loss mitigation options can be found below in the Sample Borrower Walkthrough section.

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[16] MORTGAGEE LETTER 2012-022, REVISIONS TO FHA'S LOSS MITIGATION HOME RETENTION OPTIONS (2012).
[17] *Id.*; MORTGAGEE LETTER 2009-23, MAKING HOME AFFORDABLE PROGRAM: FHA'S HOME AFFORDABLE MODIFICATION LOSS MITIGATION OPTION (2009).
[18] MORTGAGEE LETTER 2010-04, LOSS MITIGATION FOR IMMINENT DEFAULT (2010).
[19] MORTGAGEE LETTER 2009-23, ATTACHMENT - GUIDELINES FOR FHA-HAMP (2009).

USES FOR THE WORKSHEET

What the Worksheet Can Do:

- Determine for which FHA home retention loss mitigation option a borrower is eligible based on the criteria set out in Attachment A of Mortgagee Letter 2012-22.
- Provide detailed information about potential outcomes to borrowers and set expectations.
- Create evidence of loss mitigation option eligibility to combat a servicer's wrongful denial.

What the Worksheet Cannot Do:

- Be effectively run in any version of Excel 2003 or older. The Worksheet uses features new to Excel 2007. It is compatible with Excel 2007 and 2010.
- Substitute for a basic understanding of FHA guidelines—the Worksheet only runs the Waterfall found in Attachment A. It does not consider such restrictions as the number of loss mitigations options offered to one borrower, owner occupancy, home size, etc.
- Run Steps 1 and 2 on the Attachment A Waterfall. Given that these two steps do not require calculations, they are excluded from the Worksheet.
- Analyze non-FHA loans—for non-FHA loans, see the HAMP and GSE Standard Modification Waterfall Worksheet, posted at http://www.mfy.org/projects/foreclosure-prevention-project/.
- Account for inaccurate inputs. The outputs are only as good as the inputs.

WORKSHEET CELL GUIDE

Cell Key

- Blue Cells must be filled in by the user.
- Yellow Cells indicate the cell is showing the result of a calculation.
- Green Cells indicate that the cell is showing the contents of another cell, often located on another sheet.
- Purple Cells indicate that the cell is showing an important or final calculation result.

Input Definitions

Monthly Income

- Timing of Employment Income – provides six options as to when the borrower is paid to calculate monthly employment income.
    - o Weekly – borrower is paid once a week.
    - o Biweekly – borrower is paid once every two weeks.
    - o Bimonthly – borrower is paid twice a month.
    - o Monthly – borrower has a monthly pay figure.
    - o Annual – borrower has an annual pay figure.
    - o YTD – ("Year-To-Date") borrower has a figure showing total paid to-date over the year.
- Enter Date of YTD – only available if Timing of Employment Income is set to YTD. Date of YTD requires the pay date used in the YTD figure.
- Employment Income – borrower's gross employment income over the timeframe selected in Timing of Employment Income.
- Contribution – money provided on a monthly basis to the borrower from a non-borrower occupant for payment of the mortgage.
- Untaxed Income – monthly income that is not subject to federal income tax. Examples include SSI, SNAP, VA benefits and adoption assistance payments. The worksheet will

automatically gross up untaxed income by 25%.

- Fixed Income – taxable income received on a monthly basis. Examples include SSA, SSD and pension payments.
- Rental Income – income received from renting units in the primary residence. The worksheet will automatically adjust the rental income down by 25%.
- Deductions from Paycheck – the amount taken out of the borrower's paycheck over the timeframe selected above at Timing of Employment Income.

Monthly Expenses

- FHA offers little to no guidance on which expenses must be tallied. The list of expenses here errs on the side of including more than is likely required.[20]

Mortgage Information

- Loan Type – the type of loan product. If the borrower has a fixed rate loan that amortizes evenly over the term of the loan, then select "Fixed Rate." If instead, the borrower has an adjustable rate mortgage, select "ARM."
- Monthly P&I Payment – available only when the mortgage has an adjustable rate, and "ARM" was selected above. This cell requests the amount of monthly principal and interest payments currently due.
- Original Principal – the original principal on the loan, used to compute the current principal balance.
- Original Value – the value of the home at the time the loan was originated. This is used to determine when the borrower will no longer be charged a Mortgage Insurance Premium ("MIP"). MIP is removed when the loan-to-value ratio ("LTV") drops below 78% and the borrower has paid on the mortgage for 5 years. For FHA, LTV is the unpaid principal

[20] The closest HUD comes to offering concrete guidance is in Mortgagee Letter 2000-05, which says, "The lender may request that [detailed financial] information be submitted on Form HUD-92068 F, *Request for Financial Information,* or on a similar form provided by the lender." MORTGAGEE LETTER 2000-05, LOSS MITIGATION PROGRAM – COMPREHENSIVE CLARIFICATION OF POLICY AND NOTICE OF PROCEDURAL CHANGES 10 (2000). Although Form HUD-92068 F is no longer available on HUD's website, it can be found on other non-HUD affiliated websites. All expenses listed on HUD-92068 F are included in the Worksheet.

balance divided by the value of the home at origination.

- Term – term of the loan in months.
- Original Interest Rate – the interest charged at the time the loan was originated, used to calculate MIP if the loan has an adjustable rate.
- Current Interest Rate – available only when the loan has an adjustable rate, and "ARM" was selected above. Enter the rate currently being charged.
- Date of First Payment – day that the first payment on the loan is due. This date is later than the date of origination.
- Monthly Property Taxes – amount of property taxes due on a monthly basis, corresponding to the "T" in PITIA.
- Monthly Homeowner's Insurance – cost of homeowner's insurance due on a monthly basis, corresponding to the second "I" in PITIA.
- Monthly Association Fees – cost of homeowner's association fees due on a monthly basis, corresponding to the "A" in PITIA.
- Upfront MIP Financed? **–** generally the answer will be yes. An upfront charge is assessed on FHA loans which can be paid outright at origination, or financed by rolling the charge into the principal balance. If it is financed, FHA will exclude the charge from the calculation of the loan amount that must be insured through MIP payments.
- Default Date – the date of the first missed payment.[21]
- Fees and Costs – the allowable fees and costs accrued on the mortgage. These are both included in the Capitalized UPB. The worksheet divides them into Legal Fees & Costs and Bank Foreclosure Fees & Costs because many reinstatement or payoff figures make such a division.[22]

[21] Unlike the three months it takes to default on most mortgages, FHA defines a default as "1 payment past due more than 30 days." *Id.* Here the date that matters is the first missed payment, as that date is used to calculate arrears.
[22] HUD defines reasonable attorney fees for each state, setting a maximum amount it will reimburse lenders for bringing a foreclosure action. MORTGAGEE LETTER 2005-30, SINGLE FAMILY FORECLOSURE POLICY AND PROCEDURAL CHANGES (2005). In New York City, for instance, $1,850 is deemed a reasonable attorney fee for a foreclosure. MORTGAGEE LETTER 2005-30, ATTACHMENT 3 - HUD SCHEDULE OF STANDARD ATTORNEY'S FEES (2005).

- Freddie Mac PMMS 30yr Fixed – this rate, plus the maximum allowable risk adjustment, is the highest interest rate that a lender can charge on a modification.
- Risk Adjustment – a factor added to the Freddie Mac PMMS 30yr Fixed to calculate the maximum allowable interest rate.
- Previous Partial Claims – the amount the borrower has previously secured in Partial Claims.

SAMPLE BORROWER WALKTHROUGH

BUDGET

Monthly Income

A borrower (hereinafter "Borrower") is in foreclosure and comes to you for help. She has four children, and has lived in the subject home since 2008, when she purchased the property. She was laid off in late 2010. In order to stay current on her mortgage, the Borrower exhausted her savings and cashed out her retirement. Despite getting an excellent new job in late 2011, she has been unable to bring her account current as she has been stuck in a loss mitigation morass, submitting and resubmitting loan modification applications.

In late December, the Borrower brings in her paycheck showing she is paid every two weeks. The Borrower's gross pay for the period is $3,352.31. But the Borrower's gross year-to-date ("YTD") income, including overtime and a bonus, is $98,765.55. The paystub was issued on December 13, 2012.

The Borrower also has rental income. The home is a duplex and the Borrower rents out the garden apartment for $2,200 a month under the terms of a signed lease. Income from the rental is deposited directly into the Borrower's checking account.

Inputting Income Information

Use the YTD figure instead of the biweekly amount. Overtime and bonus pay is included in the gross monthly income calculation, and thus using the YTD figure will yield a more accurate number. Select YTD for Timing of Employment Income, enter 12/13/2012 for Date of YTD,[23] and $98,765.55 for Employment Income. The Worksheet will then calculate the gross monthly pay in the next cell.

Because the borrower has verifiable rental income, input $2,200 for Rental Income. The Worksheet will then automatically adjust the income down by 25%, which accounts for loss of income due to vacancy and repair costs.

[23] Note: this is not the final day of the pay period. The income is earned on the date the pay is issued, and will thus generally be the date of the paystub.

<u>Deductions from Paycheck</u> / <u>Inputting Deductions from Paycheck</u>

Using the YTD figures on the paycheck the Borrower has provided, enter the total deductions for the year. Because YTD was selected in Timing of Employment Income above, the Worksheet will convert the YTD deductions to an average monthly deduction.

<u>Monthly Expenses</u> / <u>Inputting Monthly Expenses</u>

The Borrower has prepared a budget showing estimates of all monthly expenses. Her list includes the cost of dental insurance, which is directly taken out of her paycheck each pay period. Input all expenses in the fields provided except the insurance cost. Given that the expense is deducted from her paycheck, it has already been accounted for above in the Deductions section.

Waterfall Worksheet - FHA

Run on: 2/22/2013

FHA WATERFALL BUDGET

MONTHLY INCOME

Borrower Gross Monthly Income

Timing of Employment Income	YTD
Enter Date of YTD	12/13/2012
Employment Income	$ 98,765.55
Monthly Employment Income	$ 8,663.64
Contribution	$ -
Untaxed Income	
SSI, Food Stamps, etc.	$ -
	$ -
Fixed Income	
SSA / SSD / Pension	$ -
Rental income	$ 2,200.00
Reduced by 25%	$ 1,650.00
Monthly Subtotal	$ 10,313.64

Deductions from Paycheck

Federal Income Tax	$ 12,103.37
State Income Tax	$ 3,515.97
FICA (SS / Medicare)	$ 2,813.63
Other Taxes	$ 2,158.57
Pension/Retirement	$ 1,000.00
Union Dues	$ 950.00
Other Deductions:	$ 971.37
Other Deductions:	$ 7,998.00
Subtotal	$ 31,510.91
Monthly Total	$ 2,764.11

Co-Borrower Gross Monthly Income

Timing of Employment Income	
Employment Income	$ -
Monthly Employment Income	$ -
Fixed Income	
SSA / SSD / Pension	$ -
Untaxed Income	
SSI, Food Stamps, etc.	$ -
	$ -
Monthly Subtotal	$ -

Deductions from Paycheck

Federal Income Tax	$ -
State Income Tax	$ -
FICA (SS / Medicare)	$ -
Other Taxes	$ -
Pension/Retirement	$ -
Union Dues	$ -
Other Deductions:	$ -
Other Deductions:	$ -
Subtotal	$ -
Monthly Total	$ -

TOTAL GROSS MONTHLY INCOME **$ 10,313.64**

MONTHLY EXPENSES

Housing Expenses

Second Mortgage/Home Equity	$ 342.68
Other Mortgage	$ -
Property Maintenance	$ 30.00
Time Share Property	$ -
Water/Sewage	$ 120.00
Heating/Electricity	$ 90.00

Other loans

Credit Cards	$ 44.00
Student Loan	$ -
Automobile Loan	$ -
Other Loan	$ -

Personal/Living Expenses

Cable TV/Satellite	$ 135.00
Telephone/Pager/Mobile Phone	$ 50.00
Online Service	$ -
Groceries/Food	$ 400.00
Clothing	$ 300.00
Spending Money	$ -
Life Insurance	$ -
Health Insurance	$ -
Prescription Drugs	$ -
Medical/Dental Expenses	$ -
Alimony/Child Support	$ -
Child Care	$ 200.00
School Tuition	$ -
Transportation	$ -
Automobile Insurance	$ -
Automobile Gasoline	$ -
Automobile Parking	$ -

Miscellaneous

Religious/Charitable Contribution	$ 60.00
Other Expense:	$ -
Other Expense:	$ -
Other Expense:	$ -
Other Expense:	$ -
Other Expense:	$ -

Total Expenses **$ 1,771.68**

OTHER INPUTS

Mortgage Information

The Borrower took out the subject mortgage on November 17, 2008 to purchase her home. She borrowed $500,000 to be paid off over 30 years, with an annual fixed interest rate of 5.125%. At the time she took out the mortgage, the home was worth $550,000. Sadly, the home has since fallen in value, with a Zillow estimate showing a current market price of roughly $460,000. The Borrower opted to have her upfront Mortgage Insurance Premium ("MIP") charge financed, as she made as large a down-payment as she could afford. Her first payment was due on January 1, 2009.

Taxes, insurance, and MIP are all escrowed and thereby included in her monthly mortgage payment. She pays no association fees. The quarterly property taxes total $600. The Borrower's homeowner's insurance premium is $1,560 annually. The Borrower does not have a current mortgage statement, as it has been a long time since she last received one, and she cannot remember what her MIP charges are each month, nor what her escrow payments totaled.

The Borrower believes she began missing payments in early 2011. She tells you that at times she would miss a payment one month, and send in extra money the following month. Asked if she still has any notices she received from the bank, she produces a letter dated February 7, 2012, stating that her account is 312 days past due. The Borrower also explains that she fell behind previously in early 2010 when her hours were first cut. She was able bring the account current after securing a $60,000 Partial Claim.

Inputting Mortgage Information

Start by selecting "Fixed Rate" as the Loan Type, given that the Borrower has a fixed rate loan. Had the borrower been given an adjustable rate loan, "ARM" would have been the proper selection. This choice would generate two additional input fields, Monthly P&I Payment, below Loan Type, and Current Interest Rate, below Original Interest Rate. If the loan is an ARM, a principal and interest payment must be entered as it cannot be computed by the Worksheet.

For Original Principal, enter the amount the borrowed—$500,000. Original value should be set to the value of home at the time the mortgage was taken out, thus enter $550,000. Home value is used to determine the Borrower's loan-to-value ("LTV") ratio, which dictates when MIP will no longer be charged.

The Borrower provided a quarterly property tax bill and the Worksheet requires a monthly total, so divide $600 by 3 and enter $200 for Property Taxes. The Homeowner's Insurance input also requires a monthly total, so divide $1,560 by 12 and enter $130. The Borrower does not pay association fees—set Association Fees to zero. Upfront MIP Financed? should be set to "Yes," as the Borrower told you the fee was financed. If a borrower cannot recall whether the upfront fee was financed it is likely a safe assumption that it was. Whether or not the fee was financed will slightly alter the Worksheet's monthly MIP calculation.

With the information entered so far, the Worksheet has calculated the Borrower's MIP payments to be $196.24 each month, principal and interest payments to be $2,722.43, and total monthly payments—principal, interest, taxes, insurance, and association fees, or "PITIA"—to be $3,248.67.

Next, turning to arrears, you must determine the Borrower's default date. Based on the letter the Borrower provided, as of February 7, 2012, the loan was 312 days past due. In Excel open a blank sheet and subtract 312 from 02/07/2012 to calculate April 1, 2011 as the date of the first missed payment. Enter 04/01/2011 for Default Date. Keep in mind that FHA guidelines specify that a loan goes into default once a payment is 30 days past due. The critical date here is not when FHA would describe the loan to be in default, but rather when the next payment is due. With the Default Date entered, the Worksheet then calculates arrears be determining the number of months the loan has been in default and multiplying that number by PITIA, the monthly mortgage payment. Here it is also important to point out another FHA idiosyncrasy. Unlike other modification programs, FHA defines arrears to be the sum of the missed payments, which includes payments to principal.

The Fees & Costs section totals the charges the bank will try to pass on to the borrower for servicing a loan in default and, if applicable, bringing a foreclosure action. Late fees cannot be charged. Here, the Borrower does not know the amount bank is charging. Looking to FHA's published guidance on reasonable attorney fees—see footnote 20 above—and enter $1,850, as it is the maximum that can be charged. For Bank Foreclosure Fees & Costs, enter $2,500, a New York-specific guess based on past experience. As an advocacy note, there is no reason to accept a bank's tally of charges. For instance, $1,850 is the maximum in legal fees that can be charged for a *completed* foreclosure, and if the borrower's loan is ultimately reinstated, the legal fees should be lower.

The Principal Balances section calculates the three types of principal balances the Waterfall requires. UPB Today is the amount the Borrower would have owed on her loan had she stayed current. UPB at Default is the balance of the loan at the time of default and is used to calculate the Maximum Partial Claim below. Capitalized UPB corresponds to the total amount the Borrower owes, which is the sum of UPB Today, arrears, and fees and costs.

The Market Interest Rate determines the highest rate a servicer can use on any type of modification. Click Freddie Mac PMMS 30yr Fixed, which is hyperlinked text that will take you to a Freddie Mac webpage displaying current rates. Enter 3.54%, which is the rate at the time this guide was prepared. Next enter 0.50% for Maximum Risk Adjustment, as 50 basis points is currently the maximum allowable risk adjustment. Any changes to this number will be published in subsequent mortgagee letters. Market Rate then rounds the sum of the Freddie Mac rate and the risk adjustment to the nearest 1/8.

Finally, under Previous Partial Claims enter $60,000 as the Amount of Any Previous Partial Claims.

<u>Borrower Information</u>

This section calculates net income and surplus income, which are two critical numbers used in FHA's Waterfall. Net income is a borrower's total gross income, less deductions. The Worksheet has pulled total monthly gross income and monthly deductions from the Budget sheet, and has determined the Borrower has $7,549.53 in net income.

Next, the Worksheet totals monthly expenses, which is the sum of Monthly Living Expenses and PITIA. The Borrower's Monthly Living Expenses totals $1,771.68, as calculated on the Budget sheet. PITIA is the total monthly payment on the Borrower's primary mortgage. The PITIA cell takes its value from the Mortgage Information section described above.

Total Surplus Income is the amount of money the Borrower should have left over each month after all her bills and expenses have been paid. Thus, Total Surplus Income is Net Income less Total Expenses. Here, the Borrower should have $2,529.18 she can save each month.

Waterfall Worksheet - FHA

Run on: 2/22/2013

FHA WATERFALL INPUTS

MORTGAGE INFORMATION

Loan Terms	
Loan Type	Fixed Rate
Original Principal	$ 500,000.00
Original Value	$ 550,000.00
Term (in months)	360
Current Interest Rate	5.125%
Date of First Payment	1/1/2009
Property Taxes	$ 200.00
Homeowner's Insurance	$ 130.00
Association Fees	$ -
Upfront MIP Financed?	Yes
MIP	$ 196.24
Principal & Interest	**$ 2,722.43**
PITIA	**$ 3,248.67**

Arrears (total missed payments)	
Default Date	4/1/2011
Today's Date	2/22/2013
Total Months in Default	23
Total Arrears	**$ 74,719.49**

Fees & Costs (late charges are not eligible)	
Legal Fees & Costs	$ 1,850.00
Bank Foreclosure Fees & Costs	$ 2,500.00
Total	**$ 4,350.00**

Principal Balances	
UPB Today	**$ 466,630.69**
UPB at Default	**$ 482,579.79**
Capitalized UPB	**$ 545,700.19**

Market Interest Rate	
Freddie Mac PMMS 30yr Fixed	**3.53%**
Maximum Risk Adjustment	**0.50%**
Market Rate (rounded to nearest 1/8)	4.000%

Previous Partial Claims	
Amount of Any Previous Partial Claims	$ 60,000.00

BORROWER INFORMATION

Borrower Monthly Surplus Income Calculation	
Gross Monthly Income	$ 10,313.64
Total Monthly Deductions	$ 2,764.11
Net Income	$ 7,549.53
Monthly Living Expenses	$ 1,771.68
PITIA (see mortgage info.)	$ 3,248.67
Total Expenses	$ 5,020.35
Net Income	$ 7,549.53
Total Expenses	$ 5,020.35
Total Surplus Income	$ 2,529.18

MFY Legal Services, Inc.'s Proprietary FHA Waterfall Worksheet

FHA WATERFALL[24]

Steps 3 & 4: Initial Assistance Screens

First, note that Steps 1 and 2 are excluded. As explained above in the Uses for the Worksheet Section, these steps do not require calculations and thus can be easily navigated without the Worksheet.

The first step on the Worksheet looks at the Borrower's surplus income. Here, the Borrower's surplus income is greater than both $300 and 15% of her net income yielding a "Yes" for the Result. Had the Result been "No," the Borrower would have skipped directly to Step 6, bypassing the Loan Modification assessment.

The next step essentially checks whether the Borrower could reinstate the loan in 6 months without any change in terms, or the granting of a Partial Claim. Here, given that the Borrower could not cure the default in 6 months using 85% of her income surplus the Result is "No." Had the Result been "Yes," the Borrower would be ineligible for a Loan Modification and FHA HAMP.

Step 5: Loan Modification

FHA allows for loan modifications whereby the arrears are capitalized; the loan term is extended; the loan is re-amortized over 30 years; and, the interest rate is reduced to a market rate. For the purposes of the Waterfall, Loan Modification eligibility is tested by capitalizing the arrears, re-amortizing the loan over 30 years, and setting the interest rate to the Market Rate. If a modification under those terms would reduce a homeowner's PITIA by at least 10% and by at least $100, then that homeowner is eligible for a modification. Here, given that the Borrower's interest rate is already low and that her loan balance is increasing through the capitalization of arrears, a Loan Modification would only reduce her PITIA payments by 3.61%. Thus, the Result

[24] The format and flow of the waterfall is based on Attachment A: FHA Loss Mitigation Home Retention Option Priority Order (Waterfall), found in Mortgagee Letter 2012-22. The steps listed in the headers correspond to the steps listed on FHA's Waterfall.

is "No," and she is not eligible for a Loan Modification.

Step 6: FHA-HAMP

Within this section you will find the greatest deviation from the Waterfall description in Attachment A. In the interest of clarity, the steps are reordered with certain outcomes described differently.[25]

First, the Worksheet calculates a target payment. Usually, FHA's Waterfall will yield a target that is 31% of a homeowner's gross monthly income ("GMI"). Here however, you will notice that the Borrower's target is set at 80% of her PITIA, $2,598.94. You will also notice that in some cases that target can be 25% of GMI.

Second, the Worksheet determines the Maximum Partial Claim a homeowner could receive. The Partial Claim is capped at 30% of UPB at Default, less any previous Partial Claim already awarded. The Borrower previously received a $60,000 Partial Claim, and with 30% of her UPB totaling $144,773.94, her Maximum Partial Claim is $84,773.94.

Third, FHA-HAMP allows for a stand-alone Partial Claim. This loss mitigation option does not alter the terms of the mortgage, but instead simply cures the default by granting a partial claim for arrears. The Borrower is not eligible for a stand-alone Partial Claim because her current interest rate is not at or below the Market Rate, and her current PITIA is not at or below her target.

Fourth, FHA-HAMP also offers a stand-alone FHA-HAMP Modification. The terms of this modification are identical to those of a Loan Modification. The only difference in the two workout options is the eligibility criteria. The Borrower is not eligible for a stand-alone FHA-HAMP Modification because it would not yield a monthly payment at or below her target.

Fifth, the Worksheet next checks to see if the Borrower's target payment can be reached by modifying the loan, and using a Partial Claim to cover arrears and possible principal

[25] In creating the Worksheet we consulted with a Mortgage Housing Specialist at HUD's National Servicing Center to confirm our reading of the Waterfall.

deferment. The terms of the modification would be the same as those above, re-amortized over 30 years with the interest rate set to the Market Rate, with the important distinction that the arrears are not capitalized. Here, the Borrower's target payment could only pay off a loan for $434,150.34 under the modified terms, which is less than her UPB Today. She will therefore need principal deferment in order to bring her PITIA payment down to her target. The principal deferment needed is $32,480.35 which, when combined with her arrears, totals $111,549.84, an amount exceeding her Maximum Partial Claim. Thus, she cannot reach her target payment using a Loan Modification combined with a Partial Claim that includes principal deferment.

The final step in the modification allows for capitalization as well as a PITIA payment that is as much as 40% of a homeowner's GMI. By both modifying the Borrower's loan according to the standard terms, and giving her the maximum principal deferment available, the Borrower would have a PITIA payment that is just 26.44% of her GMI. Because she is below the 40% GMI cap, the Borrower is eligible for a loan modification. See the next sheet for a description of her modification terms.

Waterfall Worksheet - FHA
Run on: 2/22/2013

FHA WATERFALL

STEPS 3 & 4: INITIAL ASSISTANCE SCREENS

Is surplus income greater than $300 and 15% of net income?

Surplus income	$ 2,529.18
15% of net income	$ 1,132.43
Result	**Yes**

Continue

Is 85% surplus income sufficient to cure arrears in 6 months?

Arrears, fees, & costs	$ 79,069.49
85% of surplus income	$ 2,149.80
Months to cure arrears w/ of 85% surplus income	37
Result	**No**

Continue

STEP 5: LOAN MODIFICATION

Will modification reduce PITIA by more than 10% AND $100?

Current PITIA	$ 3,248.67
Market rate	4.000%
Capitalized UPB	$ 545,700.186
PITIA at market rate, 30 yr term, & capitalized UPB	$ 3,131.49
Percent reduction	3.61%
Amount of reduction	$ 117.18
Result	**No**

Continue to FHA-HAMP

STEP 6: FHA-HAMP

Calculate FHA HAMP Target Payment

1. 31% of gross monthly income	$ 3,197.23
2. 80% of current PITIA	$ 2,598.94
3. 25% of gross monthly income	$ 2,578.41
4. Take greater of 2 & 3	$ 2,598.94
5. Take lesser of 1 & 4	$ 2,598.94
Target payment	**$ 2,598.94**

Calculate Maximum Partial Claim

1. 30% UPB at Default	$ 144,773.94
2. Less previous partial claims	$ 60,000.00
Maximum Partial Claim	$ 84,773.94

Stand-Alone Partial Claim Analysis

All three of the following must be affirmative

Is Interest Rate at or Below Market?	No
Is PITIA Payment at or Below Target?	No
Does Max PC exceed Arrears + Fees?	Yes
Result	**No**

Continue to the Stand-Alone Modification

Stand-Alone FHA-HAMP Modification

Target Payment must support capitalized UPB at Market Rate

PITIA for Capitalized UPB at Market Rate	$ 3,131.49
Target Payment	$ 2,598.94
Result	**No**

Continue to Modification with Partial Claim

Modification with Partial Claim

Can Maximum Partial Claim cover arrears, fees and deferment?

UPB Today	$ 466,630.69
Principal Supported by Target Pmt over 30 yrs	$ 434,150.34
Principal Deferment Needed	$ 32,480.35
Arrears + Fees + Deferment	$ 111,549.84
Result	**No**

Continue to Increase Payments

Increase payments up to 40% DTI

Payment may not exceed 40% of Gross Monthly Income

New Principal: Capitalized UPB less Partial Claim	$ 460,926.25
PITIA needed to support New Principal	$ 2,726.77
Debt to Income Ratio	26.44%
Result	**Yes**

Borrower eligibile for FHA-HAMP modification.

MFY Legal Services, Inc.'s Proprietary FHA Waterfall Worksheet

FHA WORKOUT TERMS

If the homeowner is eligible for a modification or a stand-alone Partial claim, the terms of the homeowner's mortgage will be displayed on this sheet.

Under the terms of the FHA-HAMP Modification and Partial Claim for which the Borrower should be eligible, her new PITIA payment will be $2,726.77. This is slightly higher than her target because there was insufficient principal deferment available to reduce her balance enough to reach her target. The Borrower's new principal balance is the Capitalized UPB less her Maximum Partial Claim. So while her Partial Claim was insufficient to reach her target payment, she should still receive $84,773.94 in to cover her arrears, legal fees and costs, as well as some deferment. The Borrower's interest rate would be set to the Market Rate and her loan re-amortized over 30 years.

Waterfall Worksheet - FHA

Run on: 2/22/2013

FHA WORKOUT TERMS

HAMP Modification with Partial Claim

Monthly PITIA	$ 2,726.77
Monthly P&I	$ 2,200.53
Principal	$ 460,926.25
Partial Claim	$ 84,773.94
Interest Rate	4.000%
Remaining Term	360

MFY Legal Services, Inc.'s Proprietary FHA Waterfall Worksheet