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CHAPTER 5. LOSS MITIGATION

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5.01 LOSS MITIGATION OPTIONS

a. Loss mitigation is an option available to help Veterans avoid foreclosure on delinquent loans, and reduce possible loss to the government. The Department of Veterans Affairs (VA) delegates the primary responsibility for loss mitigation to servicers. VA recognizes five loss mitigation options, and pays an incentive to the servicer when any of these options are successfully completed. The loss mitigation options are divided into either home retention options, or alternatives to foreclosure. Home retention options include repayment plans, special forbearances, and loan modifications. Alternatives to foreclosure include compromise sales, and DIL of foreclosure.

b. VA also has a refund option that is available for eligible borrowers as an alternative to foreclosure. Please refer to Chapter 9, Refunds, of this handbook for additional information regarding the refunding process.

c. VA technicians may become involved in the loss mitigation process when borrowers contact VA directly to request assistance, or when the VA-assigned technician determines that a loss mitigation option should be pursued after reviewing the Adequacy of Servicing (AOS), or Pre-Foreclosure process on the loan.

d. VA encourages servicers to consider loss mitigation options that allow the Veteran to retain their home. However, if circumstances show that the borrower is unable to retain the home, or that home retention options are not feasible, the servicer should proceed with reviewing alternatives to foreclosure. Even though VA encourages servicers to consider loss mitigation for retention options, VA regulation does not require such review if the borrower is unable, or unwilling to retain their home. Servicers must select the best option for all parties involved as early in the delinquency as possible.

e. A home retention option should not be approved unless it is within the borrower’s financial ability to reinstate the delinquency. The servicer should not require a substantial sum from a delinquent borrower unless there is ample justification. It is inadvisable to encourage a delinquent borrower to obtain funds from another means for a payment to cure the default on the loan. The additional burden of installment payments on such a loan is likely to worsen the already difficult financial position, and increase the possibility of future default on the mortgage. Home retention options include:

1. Repayment plan.

2. Special forbearance.

3. Loan modification.

f. If the servicer, and the borrower cannot resolve the delinquency through a home retention option, the servicer should consider alternatives to foreclosure. Alternatives to foreclosure include:

1. Compromise sale.

2. DIL of foreclosure.

g. When servicers report a home retention event through their nightly file, or manually through the Servicer Web Portal (SWP), and the loan reinstates, the VA Loan Electronic Reporting Interface (VALERI) processes a Default Cured/Loan Reinstated (DCLR) event, and VA will review for an incentive payment eligibility. When servicers report an alternatives to foreclosure event, VA reviews the incentive payment eligibility at the time of claim review.

h. When loss mitigation options are not feasible, the servicer should immediately refer the loan to foreclosure in order to reduce potential losses to the Government, and to ensure the Veteran’s indebtedness is not unduly increased. VA encourages servicers to continue to pursue loss mitigation options even after initiating the foreclosure process.

i. When a servicer completes a loan modification or alternative to foreclosure on a loan that is less than 61 days delinquent, they will need to report the Electronic Default Notice (EDN) event by choosing “imminent default”, or, if appropriate, “property problems” as the reason for default. In these instances, the EDN must be submitted prior to reporting the loan modification, or alternative to foreclosure event. VA does not require the EDN for a special forbearance or repayment plan on a loan less than 61 days delinquent.

5.02 SERVICER REPORTING REQUIREMENTS (38 C.F.R. 36.4317)

a. Loan events reported on loss mitigation options provide a snapshot of how each loan is performing, and allows VA to forecast future liabilities. The following events are required to be reported by the servicer when a loss mitigation option has been approved/completed:

1. Repayment Plan Approved. The servicer must report the event by the seventh day of the following month once the repayment plan is approved.

2. Special Forbearance Approved. The servicer must report the event by the seventh day of the following month once the special forbearance is approved.

3. Loan Modification Approved. The servicer must report the event by the seventh day of the following month once the loan modification has been approved.

4. Loan Modification Complete. The servicer must report the event by the seventh day of the following month once the borrower, and servicer has executed the loan modification agreement.

5. Compromise Sale Complete. The servicer must report the event by the seventh day of the following month once the compromise sale closes.

6. DIL Complete. The servicer must report the event by day 7 after the deed is recorded, or sent for recording.

7. Default Cured/Loan Reinstated. Servicers must notify VA once a borrower

reinstates the loan.

5.03 ACCEPTANCE OF ELECTRONIC SIGNATURES

a. VA has no objections to the use of electronic signatures on repayment, forbearance, or modification agreements between loan servicers, and borrowers, provided they are readily identifiable during a post-audit review. The Electronic Signatures in Global, and National Commerce Act (P.L. 106-229) provides that with respect to any transaction in, or affecting interstate, or foreign commerce that "a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form." However, VA cautions servicers to ensure compliance with all regulations governing VA-guaranteed home loans, including the requirement to obtain, and maintain a lien of proper dignity (38 C.F.R. 36.4354), which will require compliance with local real estate laws, especially concerning documentation of modifications to existing loans, which may vary from region to region.

#### 5.04 REPAYMENT PLAN (38 C.F.R. 36.4301)

a. A repayment plan is a written agreement, by, and between the borrower, and the servicer to reinstate a loan that is a reportable default (61, or more calendar days delinquent) by requiring the borrower to pay the normal monthly payment, plus a portion of the delinquency each month. To be eligible for an incentive, the repayment plan must be established for at least a 3-month period.

b. During the repayment agreement, servicers must monitor the agreement each month, and take appropriate action if the borrower does not comply. Plans may be renegotiated at any time.

5.05 SPECIAL FORBEARANCE (38 C.F.R. 36.4301)

1. A special forbearance is a written agreement, by, and between the

borrower, and servicer where the servicer agrees to suspend, or reduce payments for 1, or more months on a loan that is a reportable default (61, or more calendar days delinquent), and the borrower agree to pay the total delinquency at the end of the specified period, or enter into a repayment plan. Typically, the period of forbearance is between a 3-to 4-month period. Circumstances such as unemployment, natural disasters, or cases resulting from prolonged illness may prompt the consideration of a longer duration.

1. During the forbearance period, servicers must monitor the agreement, and take

appropriate action if the borrower does not comply. Agreements may be renegotiated at any time.

#### 5.06 LOAN MODIFICATIONS (38 C.F.R. 36.4315)

a. A loan modification is a written agreement by, and between the servicer, and all obligors on the loan, which permanently changes one, or more of the terms of a loan, and may include re-amortization of the balance due. VA considers the execution date of the loan modification agreement to be the date of the borrower’s signature. The loan modification must be consistent with VA regulatory requirements, and sound lending practices. If the loan originated prior to January 1, 1990, and includes a transferee, servicers must ensure that no previous obligor is released from liability by the completion of a loan modification. All loan modifications must meet the following conditions:

1. The loan is in default.
2. The loan modification will reinstate the loan, and cure the default.

3. The event, or circumstances that caused the default has been, or will be resolved, and is not expected to re-occur.

4. Household income must be able to support all financial obligations.

1. An exception is granted for 38 C.F.R. 36.4315(a)(3) requiring borrower creditworthiness to be evaluated under the criteria specified in 38 C.F.R. 36.4340.

5. The current owner(s) is obligated to repay the loan, and is party to the loan

modification agreement.

6. The servicer will not charge a processing fee, and all unpaid late fees will be waived. Any other actual costs incurred, and legally chargeable, but which cannot be capitalized in the modified indebtedness, may be collected directly from the borrower as part of the modification process, or waived, at the discretion of the servicer.

7. Servicer ensures the first lien position remains intact.

8. The guaranty dollar amount will not exceed the greater of:

(a) The original guaranty amount of the loan being modified (if loan modified amount

is less than the original loan amount, the amount of guaranty will be equal to the original guaranty percent applied to the modified loan amount), or

(b) 25 percent of the loan being modified subject to the statutory maximum specified at

38 U.S.C. 3703(a)(1)(B).

9. Borrower does not receive any cash back from the modification.

1. The property securing the mortgage loan must not have been abandoned or

condemned.

11. Unless an exception is specifically noted in this chapter, all requirements outlined in 38 C.F.R. 36.4315 must be followed. If regulatory requirements for a loan modification are not met, and the servicer believes the option would be in the best interest of the Veteran, and the Government, the servicer must submit a request for pre-approval consideration in VALERI for VA review. Refer to Chapter 6 of this handbook for more information on pre-approvals.

12. Standard servicer incentives for a completed modification will apply. Refer to Chapter 7 of this handbook for more information on incentives.

**Note**: Servicers have discretion to consider other eligibility exclusion criteria including, but not limited to, loans in active bankruptcy, mediation, or litigation, upon advice of servicer’s counsel.

13. Servicers should review the modification option that is most appropriate for the borrower’s circumstances:

b. TRADITIONAL LOAN MODIFICATION – Allows servicer to permanently modify the terms of the mortgage to reinstate the loan.

1. Evaluation of Borrower – Servicer must receive a complete underwriting package and review of the borrower’s financials to ensure the household income supports all financials obligations.

2. Must bear a fixed-interest rate. The rate must not exceed the weekly Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate conforming mortgages, rounded to the nearest one-eighth of one percent (0.125%), as of the date the modification agreement is approved, plus 50 basis points, and no more than 1 percent higher than the existing interest rate on the loan. Servicers may offer an interest rate below the maximum allowable rate at their discretion.

3. Servicers are encouraged to continue solicitation throughout the borrower’s delinquency and the foreclosure process.

c. STREAMLINE MODIFICATION - Allows servicers to extend permanent

payment relief under certain circumstances when the borrower has not submitted a complete loss mitigation application.

1. Evaluation of Borrower - Servicer evaluation of the borrower’s financial

information is not required for streamline loan modifications. In lieu of this review, borrowers must successfully complete a 3-month TPP period, and sign the streamline loan modification agreement, in order to receive a permanent loan modification. Participation in the VA streamline modification program is subject to a servicer’s discretion.

2. Must bear a fixed-interest rate. The rate must not exceed the weekly Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate conforming mortgages, rounded to the nearest one-eighth of one percent (0.125%), as of the date the modification agreement is approved, plus 50 basis points, and no more than 1 percent higher than the existing interest rate on the loan. Servicers may offer an interest rate below the maximum allowable rate at their discretion.

3. Participants are encouraged to continue solicitation throughout the borrower’s delinquency and the foreclosure process.

4. Additional Eligibility Requirements:

(a). Borrower must successfully complete a TPP. Refer to section 5.07 of this chapter for more information on VA requirements for TPPs.

(b). There must be at least a minimum 10 percent reduction in the monthly principal

and interest payment.

(c). The borrower has not previously defaulted on a prior streamline loan modification.

(d). The borrower has not submitted a complete loss mitigation application currently under review, and/or is not performing under a default curing loss mitigation option.

5. Loss Mitigation Packages - The following guidance applies to circumstances

involving the receipt of a loss mitigation package during the streamline process:

(a). If the servicer receives a complete loss mitigation package prior to mailing the VA

streamline loan modification TPP offer, the borrower is ineligible for the VA streamline loan modification option, and the servicer must evaluate the borrower for the best VA loss mitigation options based on the completed package received.

(b). If the servicer receives an incomplete loss mitigation package prior to mailing the

VA streamline loan modification TPP offer, the borrower is still eligible for the VA streamline loan modification option. An incomplete loss mitigation package should not affect a streamline consideration, offer of a TPP, or a performing TPP. VA is not requiring servicers to obtain a full loss mitigation package from the borrower for review when the aforementioned circumstances exist. A TPP is an active loss mitigation plan with the intent of bringing the loan current, and keeping the borrower in the home. The borrower should have the opportunity to successfully complete the TPP, and receive a permanent modification. If the TPP fails, then mortgage servicers should follow up to collect relevant information related to the borrower’s circumstances to resolve the delinquency, or avoid foreclosure.

(c). If the servicer receives a complete loss mitigation package after a TPP has

commenced, a performing TPP should continue while the servicer evaluates the package. A full loss mitigation package may allow the servicer to offer the borrower a more favorable modification. If the servicer determines a more favorable modification should be offered, the borrower should be allowed to continue with the TPP for consistency. The borrower should be notified immediately of the alternate modification terms.

(d). If the borrower sends in a full loss mitigation package that indicates an inability to

afford the new payment, the TPP should continue so that the borrower has the opportunity to demonstrate their ability, and desire to make the payment. A borrower that successfully completes the TPP should receive the earned permanent modification.

(e). The servicer must resume follow-up solicitation for an incomplete loss mitigation

application in accordance with applicable law if the borrower does not accept the VA streamline loan modification TPP offer.

d. VA AFFORDABLE MODIFICATION (VAAM) – Allows servicers to help homeowners avoid foreclosure when other traditional home retention options are not feasible. Servicers must evaluate the loan for a VAAM prior to determining the loan is insoluble.

1. Evaluation of Borrower – Servicer must receive a complete loss mitigation package and review the borrower’s financials. If verified financial information indicates insufficient income to justify a traditional loss mitigation options, then the servicer will use the financial information obtained to evaluate the possibility of a VAAM.

2. Must bear a fixed-interest rate. The rate must not exceed the weekly Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate conforming mortgages, rounded to the nearest one-eighth of one percent (0.125%), as of the date the modification agreement is approved, plus 50 basis points, and no more than 1 percent higher than the existing interest rate on the loan. Servicers may offer an interest rate below the maximum allowable rate at their discretion.

3. Servicers are encouraged to continue solicitation throughout the borrower’s delinquency and the foreclosure process.

4. Additional Eligibility Requirements:

(a). New monthly mortgage payment (including principal, interest, property taxes, insurance, and condominium, or homeowners’ association fees (PITIA)) no greater than 31 percent of the borrower’s monthly gross income.

(b). Servicers may reduce the interest rate and extend the terms to achieve the target monthly PITIA payment. If principal deferment is necessary to achieve the target monthly mortgage payment, it must be non-interest bearing, and either paid, or refinanced by the maturity date. Principal deferment is optional, and at the discretion of the servicer.  VA has no requirement regarding the amount deferred. If none of these measures result in the target monthly PITIA payment, then servicers must pursue alternatives to foreclosure.

e. VA DISASTER MODIFICATION – Allows servicers to offer a permanent modification of loan terms to provide payment relief to impacted delinquent borrowers when the borrower has not submitted a complete loss mitigation application. All eligible impacted borrowers should have an opportunity to be considered for a VA Disaster Loan Modification.

1. Evaluation of Borrower - Servicer evaluation of the borrower’s financial information is not required for a disaster modification. To be eligible for the disaster modification option, borrowers must successfully complete a 3-month TPP period, and sign the disaster modification agreement in order to receive a permanent loan modification.

2. Must bear a fixed-interest rate. The rate must not exceed the weekly Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate conforming mortgages, rounded to the nearest one-eighth of one percent (0.125%), as of the date the modification agreement is approved, plus 50 basis points, and no more than 1 percent higher than the existing interest rate on the loan. Servicers may offer an interest rate below the maximum allowable rate at their discretion.

3. Servicers are encouraged to continue solicitation throughout the borrower’s delinquency and the foreclosure process, up to 12 months after the federally-declared disaster.

4. Additional Eligibility Requirements:

(a). The borrower has been impacted by a federally-declared disaster.

(b). The mortgage loan was not more than 30 days past due at the time of the disaster.

(c). The mortgage loan is at least 60 days delinquent after the disaster forbearance period has ended. Servicers may offer a disaster modification to a borrower prior to the expiration of the forbearance period if clear evidence exists that the borrower is ready to resume monthly installments.

(d). Borrower must successfully complete a TPP. Refer to section 5.07 of this chapter for more information on VA requirements for TPPs.

(e). The borrower has not submitted a complete loss mitigation application currently under review, and/or is not performing under a default curing loss mitigation option.

5. An exception is granted for the following requirements in 38 C.F.R. 36.4315:

(a). 38 C.F.R. 36.4315(a)(4): At least 12 monthly payments have been paid since the closing date of the loan.

(b). 38 C.F.R. 36.4315(a)(7): A loan has not been modified more than once in a 3-year period or more than 3 times during the life of the loan.

f. DISASTER EXTEND MODIFICATION – Allow servicers to offer permanent payment relief by extending the maturity date, up to 12 months, to impacted delinquent borrowers when the borrower has not submitted a complete loss mitigation application. All eligible impacted borrowers should have an opportunity to be considered for a VA Disaster Loan Modification.

1. Evaluation of Borrower - Servicer evaluation of the borrower’s financial information is not required for a disaster modification. To be eligible for the disaster extend modification option, the servicer must waive the delinquent interest accrued on the loan as a result of the delinquency. The liability of the Secretary will not be increased when servicers waive the delinquent interest, allowing for the modification to be completed without a TPP.

2. The rate must not exceed the borrower’s current interest rate. The desired result is that borrowers can resume the same regular monthly installments without feeling as though they have been financially penalized due to a disaster. An exception is granted for 38 C.F.R. 36.4315(a)(8) if the current interest rate is above the most recent Freddie Mac Weekly Primary Mortgage Market Survey Rate for 30-year fixed-rate conforming mortgages.

3. The servicer may re-amortize the loan, if necessary, to meet any investor restrictions, as long as the new monthly payment is the same as, or less than the current monthly installment.

4. Servicers are encouraged to continue solicitation throughout the borrower’s delinquency and the foreclosure process, up to 12 months after the federally-declared disaster.

5. Additional Eligibility Requirements:

(a). The borrower has been impacted by a federally-declared disaster.

(b). The mortgage loan was not more than 30 days past due at the time of the disaster.

(c). The mortgage loan is at least 60 days delinquent after the disaster forbearance period has ended. Servicers may offer a disaster modification to a borrower prior to the expiration of the forbearance period if clear evidence exists that the borrower is ready to resume monthly installments.

(e). The terms of the loan are extended by the equal number of months the loan is delinquent due to the disaster. For example, if the loan is 4-months delinquent, the loan term may only be extended by 4 months. The limit of the term extension is 12-months, without prior approval from VA.

(f). The modification does not raise the borrower’s current interest rate or monthly principal and interest amounts.

(g). Servicer waives the delinquent interest.

(h). The borrower has not submitted a complete loss mitigation application currently under review, and/or is not performing under a default curing loss mitigation option.

6. An exception is granted for the following requirements in 38 C.F.R. 36.4315:

(a). 38 C.F.R. 36.4315(a)(4): At least 12 monthly payments have been paid since the closing date of the loan.

(b). 38 C.F.R. 36.4315(a)(7): A loan has not been modified more than once in a 3-year period or more than 3 times during the life of the loan.

5.07 TRIAL PAYMENT PLAN (TPP) AND INTEREST RATE

a. The TPP allows borrowers to demonstrate their ability to make the modified monthly mortgage payment, prior to the completion of a permanent modification. TPPs must be 3 months in duration.

b. If a TPP is required, VA encourages the servicer to provide the written TPP offer within 15-calendar days of the date the servicer determines the borrower to be eligible. If the servicer sends the TPP on or before the 15th day of a calendar month, the servicer must use the first day of the following month as the first trial plan payment due date. If the servicer sends the TPP after day 15 of the calendar month, the servicer must use the first day of the successive month following the next month as the first TPP due date. To accept the offer, the borrower can notify the servicer verbally, or make the first TPP. The servicer must provide the borrower foreclosure protection, by placing any foreclosure proceedings on hold, upon receipt of the first trial plan payment. The borrower must make each of the three scheduled trial payments by the last day of the month in which the payment is due.

c. Interest rates are based on the final approval of the loan modification. Servicers may request pre-approval from VA to complete the modification with an interest rate based on the approval date of the TPP. All pre-approval requests must be submitted prior to the TPP agreement, as VA does not grant pre-approvals for actions a servicer has already completed.

d. Final Modification - After successfully completing the three trial payments, the

servicer will provide the borrower with the final modification agreement. The servicer should prepare the agreement early enough in the trial period to allow sufficient processing time so that the modification becomes effective on the first day of the month following the final trial-period month. If the borrower does not make the final trial payment on or before the due date in the TPP (but does make the final payment before the end of the month in which it is due), then the servicer may complete the loan modification agreement so that the modification becomes effective on the first day of the second month following the final trial period month. The borrower will not be required to make an additional TPP during the (interim) month in between the final trial-period month, and the month in which the modification becomes effective. The borrower must sign, and return the streamline loan modification agreement, and must agree to set up an escrow account for taxes, hazard, and flood insurance prior to the beginning of the TPP if one does not currently exist.

5.08 COMPROMISE SALE (38 C.F.R. 36.4322(e))

a. A compromise sale is a sale to a third party for an amount less than the borrower’s total eligible indebtedness (TEI) on the loan. This alternative should be considered when a private sale is not feasible due to little, or no equity. The servicer must agree to release the lien in exchange for the proceeds of the sale. The servicer may complete a compromise sale if the following conditions exist:

1. The servicer has determined the loan insoluble. **Note**: Servicer evaluation of the borrower’s financial information is not required if the loan is 60 or more days delinquent, and the borrower has requested a compromise sale. In those instances, exceptions are granted for 38 C.F.R. 36.4350(h)(2), and (3), eliminating a servicer’s requirement to establish employment status, present income of the borrower(s), as well as current monthly expenses of the borrower(s) including household, and debt obligations.

2. The net proceeds equal or exceed the net value of the property securing the loan.

3. The current owner of the property will not receive any proceeds from the sale of the

property.

b. When a servicer completes a compromise sale option on a loan that is less than 61 days delinquent, they will need to report the EDN event by choosing “imminent default,” or if appropriate, “property problems,” as the reason for default. The EDN must be submitted prior to completing the closing for the compromise sale, or reporting the Compromise Sale Complete event in VALERI.

c. Any liquidation appraisal for a property originally scheduled for foreclosure will not require a second appraisal if a subsequent compromise sale offer is made on the property. The exterior-only liquidation appraisal will be sufficient to complete the compromise sale without any further delays.

d. If regulatory requirements for a compromise sale are not met, and the servicer believes the option would be in the best interest of the Veteran, and the government, the servicer must submit a request for pre-approval in VALERI. Refer to Chapter 6 of this handbook for more information on pre-approvals.

#### 5.09 DIL OF FORECLOSURE (38 C.F.R. 36.4322(f))

a. A DIL of foreclosure is a voluntary transfer of a property from the borrower to the servicer for a release of all obligations under the mortgage.

b. In cases when a default is insoluble, and there is little, or no likelihood of a private sale, consideration should be given to accept a DIL of foreclosure. Completing a DIL may save on foreclosure costs, cut down on possible decreases in the value of the security, and reduce, or eliminate the amount of the Veteran's indebtedness. A DIL is completed when the deed to the servicer from the Veteran is sent for recording, or is recorded. The property is considered conveyed to VA when the servicer reports the Transfer of Custody (TOC) event in VALERI. Servicers must submit the full title package to VA’s property management contractor. [Refer to the Title Documentation, Insurance, and Timeframe Requirements on the VALERI Internet for additional information.] Servicers may complete a DIL if all the following conditions exist:

1. The loan is insoluble. **Note**: Servicer evaluation of the borrower’s financial information is not required if the loan is 60 or more days delinquent, and the borrower has requested a DIL. In those instances, exceptions are granted for 38 C.F.R. 36.4350(h)(2), and (3), eliminating a servicer’s requirement to establish employment status, present income of the borrower(s), as well as current monthly expenses of the borrower(s) including household, and debt obligations.

2. The VA net value of the property has been determined by subtracting the estimated

costs to VA for the acquisition, and disposition of the property from the “as is” value available on the Notice of Value (NOV).

3. A clear title can be obtained.

4. An agreement, signed by the borrower, to vacate the property when the deed is recorded, or to give possession of the property to VA immediately upon notification to do so.

#### 5.10 NOTICE OF VALUE EXTENSION – ALTERNATIVES TO FORECLOSURE

a. VA requires an appraisal to be valid at the time of closing for the compromise sale, or recording (or sent for recording) of the DIL alternative. If a servicer is pursuing an alternative to foreclosure, and the NOV will expire prior to the completion of the alternative, servicers must order a new appraisal before approving, or denying the alternative.

b. In rare instances, VA has the ability to extend the NOV if it will expire before a servicer has completed the alternative. If the NOV was valid on the date of approval of a foreclosure alternative, but will expire between approval, and completion of the compromise closing date, or DIL of foreclosure recorded date, the servicer must request an extension. The request must be submitted to the VA-assigned technician prior to the expiration date of the NOV. The servicer must adequately provide justification as to why the extension is required. Generally, VA will extend an appraisal if the following are met:

1. The NOV extension request is received before the closing of the compromise sale,

or DIL of foreclosure execution, or recorded date, whatever is reported by the servicer.

2. The request is received prior to the NOV expiration date.

3. The appraiser gained access to the property, and there are no known extenuating

circumstances that exist that may diminish the value of the property.

4. The expiration date will be extended by no more than 14 days.

c. Any requests that fall outside of these general requirements will be reviewed by VA on a case-by-case basis.

d. If a servicer approves a compromise sale, or DIL of foreclosure without taking VA’s appraised value into consideration, they are in violation of 38 C.F.R. 36.4322. On a compromise sale, VA will issue a regulatory infraction, not pay a claim until the net value is established, and an adjustment may be made to the claim if VA’s liability was increased. On a DIL of foreclosure, VA will issue a regulatory infraction, will not accept custody of the property, and will not pay a claim until the net value is established. In rare instances, if the servicer discovers and corrects their error, VA may consider acceptance of custody, and pay a claim once the net value is established.

5.11 RELOCATION ASSISTANCE FOR VA BORROWERS

a. VA authorizes servicers to advance $1,500 in relocation assistance to borrower occupants who complete a short sale with a VA compromise claim, or who execute a DIL. VA will treat this as a reimbursable expense that may be included as a part of the eligible indebtedness on the basic claim event in VALERI.

b. VA expects servicers to proactively notify eligible borrowers of the availability of foreclosure alternatives, and to encourage completion of a short sale, or DIL by providing the homeowner a written agreement describing the requirements for receipt of a relocation incentive. In the case of a DIL, the agreement must specify that the property will be unencumbered by other liens, or restrictions on title, it will be kept in good, and safe condition, and it will be left ready for sale in “broom clean” condition (i.e., clear of all personal belongings, and reasonably clean) upon the homeowner’s departure.

c. Relocation assistance can provide necessary funds to conduct a move, or pay for lodging for borrowers who are faced with the loss of their home. For servicers, the transfer of ownership via DIL, or short sale is typically shorter than a foreclosure time period, and the property is left in better condition via DIL, which preserves the condition, and value of the property by minimizing the time it is vacant, and subject to vandalism, and deterioration. In addition, alternatives to foreclosure options generally provide a substantially improved outcome over a foreclosure sale for borrowers, investors, and communities.

5.12 LOAN MODIFICATION OVERSIGHT

a. VA performs several reviews during the life of the loan. Reviews are performed to ensure that VA’s liability was not increased due to non-compliance with VA regulatory requirements. The reviews may include suspicious loan modification, and early payment default (EPD) on a modified loan.

#### b. Suspicious Loan Modification (38 C.F.R. 36.4315). VA performs a review of a loan modification if the servicer failed to report all necessary data elements in the Loan Modification Complete event, and/or VALERI determines the data has failed regulatory requirements. When this occurs, VALERI will open a Review Suspicious Loan Modification process for review by the VA-assigned technician. All broken business rules in the Loan Modification Complete event must be reviewed to determine the validity of regulatory infractions. Violations of these infractions could result in VA requesting a revision to the loan modification, or possible claim adjustments. Corrections may be required by the servicer if the terms negatively impact the Veteran, or the Government. Servicers must complete all corrections within 60 days of notification by VA. Failure to make corrections within the required timeframe could result in VA making an adjustment to the claim if the loan becomes delinquent, and subsequently terminates. The following are some errors that may require further VA review:

1. The loan modification did not cure the default.

2. The interest rate on the modified loan exceeds the maximum allowable rate.

3. The term of the modified loan exceeds the maximum allowable term.

4. The new loan does not amortize to within $50 of zero over the new term.

c. EPD on a Modified Loan. VA reviews EPDs any time a servicer reports an EDN, and the loan became delinquent within the first 6 months of the first payment due date on the loan modification agreement. When this occurs, VALERI will open a Review Early Payment Default process for review by the VA-assigned technician. An EPD may be the result of an improper decision by the servicer to modify the loan. VA will complete an analysis of the loan modification underwriting package to ensure it complies with

VA requirements. Servicer errors may result in a regulatory infraction being added, and a possible future claim adjustment.