

VA Servicing Purchase – Bankruptcy Testing Template

Test Question 1: For mortgage accounts flagged for bankruptcy during the Trial Payment Plan (TPP) period, did the servicer verify and document whether the borrower filed for Chapter 13 or Chapter 7 Bankruptcy, and for Chapter 13 filings, did the servicer obtain and retain evidence of the bankruptcy court's approval or acquiescence to the VASP loan modification prior to proceeding with VASP processing?

Citation: VA Servicer Handbook M26-4, Chapter 9, Paragraph 9.07(a)(2)(a)

Exception Statement:

The servicer failed to comply with VA Servicer Handbook M26-4, Chapter 9, Paragraph 9.07(a)(2)(a). Specifically, the servicer did not adequately distinguish between Chapter 13 and Chapter 7 bankruptcy filings during the Trial Payment Plan period. For borrowers who filed Chapter 13 Bankruptcy, the servicer proceeded with VASP processing without obtaining and documenting the bankruptcy court's approval or acquiescence to the VASP loan modification. Additionally, for borrowers who filed Chapter 7 Bankruptcy during the TPP, the servicer continued with VASP activities without verifying that bankruptcy proceedings were closed, contrary to the requirement that such borrowers do not qualify for VASP until the bankruptcy proceedings are closed. This failure to properly assess and document bankruptcy status resulted in non-compliance with the regulatory requirements governing VASP eligibility and processing.

Test Question 2: For mortgage accounts where the borrower has discharged the VA-guaranteed loan debt through a Chapter 7 Bankruptcy, did the servicer include the required disclaimer statement in the VASP loan modification document acknowledging that the personal liability has been discharged in bankruptcy and that the borrower is entering into the modification voluntarily for the benefits obtained, not as an affirmation of the debt?

Citation: VA Servicer Handbook M26-4, Chapter 9, Paragraph 9.08(c)(3)

Exception Statement:

The servicer failed to comply with VA Servicer Handbook M26-4, Chapter 9, Paragraph 9.08(c)(3). Specifically, for mortgage accounts where the borrower discharged the VA-guaranteed loan debt through a Chapter 7 Bankruptcy, the servicer did not include the mandatory bankruptcy discharge statement in the VASP loan modification document. The required disclaimer language, which confirms that personal liability with respect to any amounts payable under the VA-guaranteed loan note has been discharged in bankruptcy and that the borrower is entering into the modification voluntarily for benefits obtained rather than as an affirmation of the debt, was absent from the loan modification documents. This omission violates the regulatory requirement to protect the borrower's bankruptcy discharge rights and

ensure the modification does not constitute an attempt to collect previously discharged obligations.