

# Bulletin

NUMBER: 2009-2

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TO: All Freddie Mac Sellers and Servicers

January 9, 2009

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## SUBJECTS

Freddie Mac is announcing additional Servicing requirements and documentation for the Streamlined Modification Program (SMP), for which we provided detailed requirements in the December 12, 2008 Bulletin.

With this *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin we are:

- Providing new requirements and specific related documentation for Mortgages with scheduled interest rate changes (including adjustable-rate Mortgages (ARMs)) or payment adjustments occurring during the SMP three-monthly payment trial period prior to the modification of the Mortgage (“Trial Period”)
- Providing additional information to Servicers related to processing a modification under the SMP on Mortgages with mortgage insurance
- Reminding Servicers that the suspension of foreclosure sales and scheduled evictions on occupied single-family 1- to 4- unit properties has been extended through January 31, 2009
- Reminding Servicers of our requirements for the use of Freddie Mac’s logo

## Effective dates

The following effective dates apply:

- As announced in the December 12, 2008 Bulletin, the Streamlined Modification Program is effective **December 15, 2008**, for Mortgages originated on or before **January 1, 2008**, until further notice
- The suspension of foreclosure sales and scheduled evictions, effective from November 26, 2008, has been extended through **January 31, 2009**

## Bulletin exhibits

We are providing three new exhibits for the SMP that relate to the new requirements for Mortgages with a scheduled interest rate change (e.g., ARMs) or payment adjustment occurring during the Trial Period, as follows:

- Exhibit A-4 – *Initial Workout Plan Cover Letter* for the forbearance documentation package, which includes Borrower frequently asked questions
- Exhibit A-5 – *Streamlined Modification Program Loan Workout Plan Pending Rate Adjustment* (Multistate Streamlined Modification Program Loan Workout Plan Pending Rate Adjustment – Single-Family – Fannie Mae/Freddie Mac Uniform Instrument, Form 3167, 1/09)
- Exhibit A-6 – *Modification Agreement Cover Letter Trial Period Rate or Payment Change*

In addition to being attached as exhibits to this Bulletin these documents are being made available with other SMP materials at

[http://www.freddiemac.com/singlefamily/service/streamlined\\_modification.html](http://www.freddiemac.com/singlefamily/service/streamlined_modification.html). Exhibit A-5 is being posted on the Freddie Mac Uniform Instrument web site (<http://www.freddiemac.com/uniform>) with our other Special Purpose Instruments.

Servicers are reminded that they must revise and amend any of the SMP documents as necessary to ensure compliance with applicable federal, State, and local laws, including, but not limited to, laws concerning balloon payments, equal housing and fair lending (e.g., logos), and recordation (e.g., formatting and notarization requirements), when required.

## **SERVICING REQUIREMENTS**

### **Mortgages with an interest rate change (e.g., ARMs) or payment adjustment occurring during the SMP Trial Period**

In the December 12, 2008 Bulletin, we provided special instructions for ARMs with a scheduled interest rate adjustment during the SMP Trial Period. We also indicated that we would provide requirements regarding forbearance and modification agreements for use with these ARMs at a later date.

The following requirements supercede the special instructions announced in the December 12, 2008 Bulletin and provide information regarding the documentation for use with these ARMs and any other Mortgage that has a payment adjustment that would occur during the Trial Period when the terms of that payment adjustment are not known at the time of the forbearance offer.

For eligible Mortgages that have a scheduled interest rate or payment adjustment occurring during the Trial Period, when the adjustment cannot be determined at the time of the forbearance offer and the Borrower income and other necessary information is available to the Servicer, the Servicer must:

- Underwrite the Borrower for the SMP and calculate a Trial Period payment in accordance with the SMP requirements in Section III of the December 12, 2008 Bulletin, assuming the interest rate and payment due at the time of underwriting and preparation of the documents remain unchanged during the Trial Period
- Prepare and send the Borrower the following documents:
  - *Initial Workout Plan Cover Letter* (Exhibit A-4)
  - *Two Streamlined Modification Program Loan Workout Plan Pending Rate Adjustment* documents (Exhibit A-5)
  - *Hardship Affidavit* (Exhibit A-2 of the December 12, 2008 Bulletin)
  - Any applicable disclosures related to the establishment of an Escrow account and any other disclosures required by applicable federal, State and local law

If the Borrower accepts the forbearance offer, the Borrower must then sign and return the following documentation within 14 days from the date the Servicer sent the forbearance documentation package (“Offer Deadline”):

- Two original executed *Streamlined Modification Program Loan Workout Plan Pending Rate Adjustment* documents
- Completed and executed *Hardship Affidavit*
- Documentation supporting gross monthly income for all Borrowers obligated on the Note
- First payment due under the Trial Period terms
- Executed disclosures, if any, to the extent applicable federal, State or local law requires executed disclosures to be retained by the provider

If Borrower income and other necessary information are not available, the Servicer should mail the Borrower a solicitation letter (see Section II and Exhibit B to the December 12, 2008 Bulletin). Once the Borrower contacts the Servicer and provides the necessary information, the Servicer should underwrite the Borrower in accordance with the requirements of Section III of the December 12, 2008 Bulletin and, if necessary, the requirements of this Bulletin governing Mortgages with interest rate or payment adjustments during the Trial Period. If the Borrower is eligible for a modification under the SMP, the Servicer must then prepare and mail the Borrower the appropriate documentation package, depending on whether or not the Mortgage has an interest rate or payment adjustment occurring during the Trial Period.

During the Trial Period, the Servicer must follow all reporting and remitting requirements specified in the December 12, 2008 Bulletin.

Once the Servicer is able to determine the last interest rate or payment adjustment that will occur during the Trial Period, the Servicer must determine the final amounts to be capitalized and corresponding new payment amount, and prepare and send the *Modification Agreement Cover Letter Trial Period Rate or Payment Change* (Exhibit A-6) with two original *Streamlined Loan Modification Program Loan Workout and Modification Agreements* (Fannie Mae/Freddie Mac Uniform Instrument, Form 3169) to the Borrower. The Borrower must promptly execute and return both original modification agreements and must meet the conditional terms of the modification agreement in order for the modification to become effective.

If, taking into account the final amounts to be capitalized due to an interest rate or payment change, a Borrower is no longer qualified under the SMP, then the Servicer must modify the Mortgage by forbearing additional principal, only to the extent necessary to achieve the Affordable Payment at the highest permissible monthly PITIA-to-income ratio of 38% (see Section III of the December 12, 2008 Bulletin for information on calculating the PITIA payment).

#### *Example*

A Borrower with a Mortgage that will have an interest rate or payment adjustment during the Trial Period, enters into an SMP Workout Plan prior to the actual rate or payment adjustment, with an estimated payment based on all permissible loan modifications, including principal forbearance of an amount that resulted in an ITV ratio of 100%. If this Borrower experiences even a slight increase in the interest rate during the Trial Period, the capitalization of the additional interest that would accrue during the Trial Period could cause the Borrower's recalculated monthly PITIA-to-income ratio to exceed the maximum allowed of 38%. In that event, the Servicer must re-qualify the Borrower using the SMP requirements detailed in Section III of the December 12, 2008 Bulletin and take into account the final amounts to be capitalized to achieve the Affordable Payment at the highest permissible monthly PITIA-to-income ratio of 38%.

After successful completion of the Trial Period, the Servicer must complete all requirements specified in Section IV(b) of the December 12, 2008 Bulletin.

#### **Mortgages with mortgage insurance**

Freddie Mac is seeking to obtain delegations of authority from each mortgage insurer so that Servicers will not have to obtain approval on a case-by-case basis for each modification they process under the SMP. We will post on our web site at

[http://www.freddiemac.com/singlefamily/service/streamlined\\_modification.html](http://www.freddiemac.com/singlefamily/service/streamlined_modification.html), a list of the mortgage insurers from which we have received a delegated authority agreement and will update that list as we obtain delegations.

Until Freddie Mac obtains a delegated authority agreement from a mortgage insurer on behalf of all Servicers, each Servicer must obtain mortgage insurer approval on a case-by-case basis.

Regardless of whether Freddie Mac has obtained a delegation of authority from a mortgage insurer, Servicers should always consult the applicable mortgage insurer for specific processes related to the reporting of modified terms, payment of premiums, and other operational matters in connection with Mortgages modified under the SMP.

### **Suspension of foreclosure sales and scheduled evictions extended through January 31, 2009**

On November 20, 2008, Freddie Mac announced a six-week suspension of all foreclosure sales and scheduled evictions on occupied single-family 1- to 4-unit properties with Freddie Mac-owned Mortgages beginning **November 26, 2008 through January 9, 2009**. On January 8, 2009, we announced that we are extending this suspension period through **January 31, 2009** to provide Servicers additional time to pursue loan modifications with delinquent Borrowers, and to implement the Streamlined Modification Program (SMP).

We are reminding Servicers that as a result of this announcement:

- Servicers must postpone foreclosure sales on occupied, single-family 1- to 4-unit Freddie Mac-owned Mortgages scheduled through January 31, 2009. This temporary suspension of foreclosure sales will not apply to vacant single-family properties. With respect to FHA and VA Mortgages, Servicers must comply with all FHA and VA guidelines, as applicable.
- Servicers should continue to refer delinquent Mortgages to foreclosure and process the foreclosure proceedings. However, Servicers must ensure that a foreclosure sale is not scheduled to occur until after the suspension period has expired. In addition, Servicers should not refer a delinquent Mortgage to foreclosure if the Borrower has executed a SMP Loan Workout Plan and Modification Agreement and commenced payments during the Trial Period and has not received notice of the failure to qualify for the Streamlined Modification Program or default under the terms of the SMP Loan Workout Plan and Modification Agreement.
- At the end of the foreclosure suspension period, Servicers must determine whether additional foreclosure relief should be extended to allow time for a workout in process to be completed (e.g., to permit a Borrower sufficient time to return a modification package) or whether the Servicer should proceed with the foreclosure sale. Servicers are not required to seek approval from Freddie Mac to proceed with foreclosure sales after January 31, 2009, if the Servicer has determined that a successful alternative to foreclosure is not possible.
- To prevent negative impacts to individual Servicer Performance Profiles by Mortgages for which foreclosure has been postponed under these temporary provisions, Servicers must report Default Action Code "09-Forebearance" through Electronic Default Reporting.
- Servicers must manage the need for additional fees and costs associated with the suspension and, in accordance with the requirements of Guide [Section 66.69](#), obtain our approval to exceed the expense guidelines set forth in [Exhibit 57](#), 1- to 4-Unit Property Approved Expense Amounts, and [Exhibit 57A](#), Approved Attorney Fees and Title Expenses, by submitting [Form 105](#) to Freddie Mac at [overallowables@freddiemac.com](mailto:overallowables@freddiemac.com).

### **Co-branding/use of Freddie Mac's logo**

We are reminding Servicers that they may download the Freddie Mac logo for use on SMP letters, envelopes and packages from [FreddieMac.com](http://www.freddiemac.com) at [http://www.freddiemac.com/singlefamily/service/streamlined\\_modification.html](http://www.freddiemac.com/singlefamily/service/streamlined_modification.html). A Servicer may use Freddie Mac's logo together with its own logo, to co-brand the solicitation letter and the SMP cover letters. However, a Servicer may not use the Freddie Mac logo without also including its own logo.

### **Additional information to be provided in a future Bulletin**

As noted in the December 12, 2008 Bulletin, we will be providing additional information about the following in a future Bulletin:

- Special investor reporting and remitting requirements for modified Mortgages with a partial principal forbearance
- Instructions on the process for requesting reimbursement of expenses associated with the modification that would otherwise be paid by the Borrower (e.g., notary fees, recordation fees, costs associated with obtaining a property value).

### **CONCLUSION**

Until further notice, you must retain this Bulletin and the December 12, 2008 Bulletin for Freddie Mac's Servicing requirements for Mortgages modified under the Streamlined Modification Program.

For answers to questions about the requirements in this Bulletin, Servicers should contact their Freddie Mac Servicing representative or call (800) FREDDIE. Additional resources are also available on FreddieMac.com at [http://www.freddiemac.com/singlefamily/service/streamlined\\_modification.html](http://www.freddiemac.com/singlefamily/service/streamlined_modification.html).

Sincerely,



Patricia J. McClung  
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Offerings Management