

Bulletin

NUMBER: 2008-1

TO: All Freddie Mac Sellers and Servicers

February 20, 2008

SUBJECTS

Both selling and Servicing requirements are amended in this *Single-Family Seller/Servicer Guide* (Guide) Bulletin.

With this Bulletin, we are making the following changes to our [selling requirements](#):

- Creating [two new special characteristics codes](#) (SCCs) to more accurately identify Third-Party Origination Mortgages
- Modifying certain [Uniform Instruments](#) to make them consistent with changes in State laws
- Revising the [authorized changes to the Uniform Instruments](#) in response to changes in State laws and feedback from loan originators and forms vendors
- Making changes to the Guide to better organize our requirements related to [State anti-predatory lending laws and regulations](#)
- Incorporating certain [federal statutory provisions](#) that apply when Freddie Mac engages in transactions with insured depository institutions
- Adding guidance related to our [Note endorsement requirements](#)
- Updating [Form 11, Mortgage Submission Schedule, and Form 13SF, Mortgage Submission Voucher](#), to provide additional guidance for the delivery requirements for certain data elements
- Making changes to [Form 483, Wire Transfer Authorization, and Form 987E, Wire Transfer Authorization for a Cash Warehouse Delivery](#), including adding language regarding the requirement that the authorizing signature be notarized

We are making the following changes to our [selling and Servicing requirements](#):

- Announcing that Freddie Mac will now purchase eligible [Texas Equity Section 50\(a\)\(6\) Mortgages](#) as a Guide offering
- Announcing that the [Freddie Mac Exclusionary List](#) will be posted on the first Business Day of each month beginning March 2008

We are making the following changes to our [Servicing requirements](#):

- Revising our requirements related to our [designated counsel program](#) and removing the requirement that Servicers refer their 1-unit foreclosures and bankruptcies (with the exception of Manufactured Homes) in New Jersey and the New York City metropolitan area to designated counsel
- Requiring Servicers to send [breach letters](#) (also known as acceleration letters) to delinquent Borrowers no later than the 60th day of Delinquency. Additionally, we are requiring Servicers to report to Freddie Mac via Electronic Default Reporting (EDR) the date the breach letter was sent to the Borrower.
- Reminding Servicers of their responsibilities to supply [bankruptcy counsel](#) with requested documentation and of their responsibilities when a Borrower's reorganization plan requests a cramdown
- Reminding Servicers of changes to the [designated counsel/trustee list](#) reflecting two new firms in Pennsylvania. We originally communicated these changes to Servicers via e-mail on January 8, 2008.
- Updating contact information on [Exhibit 85, Special Reset Mortgage Title Insurance Information](#)

Effective Dates

All of these changes are effective immediately except:

- **February 1, 2008** – The two new Pennsylvania designated counsel firms – McCabe, Weisberg & Conway, P.C. and Powers, Kirn & Javardian, LLC – began accepting new program referrals on this date
- **March 1, 2008**
 - Servicers must send the breach letter (also known as the acceleration letter) to delinquent Borrower(s) no later than the 60th day of Delinquency, beginning on this date
 - The Freddie Mac Exclusionary List will be posted on MIDANET[®], GoldWorks[®], MultiSuite[®] and Loan Prospector[®] on the first Business Day of each month beginning on this date
- **April 1, 2008** – Servicers will be required to report to Freddie Mac via EDR the date the breach letter was sent to the Borrower, beginning on this date
- **April 21, 2008** – Purchase transaction Mortgages with Note Dates on or after January 1, 2003 that are Colorado “covered loans” under the Colorado Consumer Equity Protection Act, will be ineligible for sale to Freddie Mac beginning on this date
- **August 4, 2008** – Use of the new SCCs, which more accurately identify Mortgages originated by a third party, are required for Mortgages delivered on or after this date

Revisions to the Single-Family Seller/Servicer Guide

The revisions include:

- [Chapters 6, 16, 17, 18, 19, 22, 24, 27, 39, 46, 51, 59, 64, 66](#) and [67](#)
- [Exhibits 4, 5, 26](#) and [85](#)
- [Forms 11, 13SE, 483](#) and 987E
- [Glossary](#)

Conclusion

The changes included in this Bulletin support our commitment to making the mortgage finance process simpler and more efficient for you, our Seller/Servicers. If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call (800) FREDDIE.

Sincerely,



Patricia J. McClung
Vice President
Customer Outreach and Offerings Deployment

SELLING CHANGES

Identifying Mortgages originated by third parties

To help us further identify the Mortgages you sell to us, we are requiring that you provide us with additional information regarding how the Mortgages were originated. **Beginning August 4, 2008**, Sellers will be required to identify Mortgages originated by third parties using one of the following new SCCs, which will replace SCC 002:

- **211** – Mortgage is a Correspondent Third-Party Origination Mortgage
- **212** – Mortgage is a Mortgage Broker Third-Party Origination Mortgage

The following existing SCC will still apply for delivery of Retail Mortgages:

- **018** – Mortgage is a Retail Mortgage

As part of this change, we are updating the definitions of Correspondent and Mortgage Broker, and adding a definition for Retail Mortgage to the [Glossary](#). Since these new and revised definitions are not effective until August 4, 2008, they appear only in the [future effective version of the Glossary, dated March 1, 2008](#). Please review the future version of the [Glossary](#) to familiarize yourself with these changes.

In addition, [Guide Sections 17.3, 22.15](#) and [Forms 11](#) and [13SF](#), have been updated to reflect this change.

Please note: until further notice, Sellers must continue to deliver Mortgages originated as Wholesale Home Mortgages by delivering SCC 002. We will notify you if you may begin delivering Mortgages with the two new SCCs before August 4, 2008.

Changes regarding the Uniform Instruments

Freddie Mac works closely with Seller/Servicers, loan instrument form vendors and Fannie Mae to identify changes in State laws that necessitate changes in the Uniform Instruments and unintentional inconsistencies between the Fannie Mae and Freddie Mac posted versions of the Uniform Instruments. Representatives of loan instrument form vendors also provide recommendations on format changes and technical language errors.

Changes to Exhibit 4, Single-Family Uniform Instruments

With this Bulletin, we have updated [Exhibit 4](#) to:

- Provide a revised New Mexico Deed of Trust (Form 3032 1/10 (rev. 1/08)), which allows non-judicial foreclosure through a trustee's power of sale as permitted by the New Mexico Deed of Trust Act. These changes have not been made to the Spanish translation of the New Mexico Mortgage.
- Provide a revised Texas Home Equity Affidavit and Agreement (First Lien) Form 3185 1/01 (rev.12/07) that incorporates recently approved amendments to the Texas Constitution
- Indicate the date of the revision of minor format and technical changes made to the Master Form/Short Form Security Instruments

Changes to Exhibit 5, Authorized Changes to Notes, Riders, Security Instruments and the Uniform Residential Loan Application

In addition, we have updated [Exhibit 5](#) to:

- Delete the mandatory requirement related to the Borrower notice that accompanied the seal in the Pennsylvania Notes and Security Instrument
- Expand the mandatory changes for convertible adjustable-rate Mortgage (ARM) Notes for Mortgages secured by property in North Carolina to include changes required to be made to the convertible ARM Riders
- Modify the language for the mandatory change for notice of default in the California Deed of Trust
- For North Carolina, include a mandatory identification of a Mortgage Broker, if one was involved in the transaction

State anti-predatory lending laws and regulations

We have collapsed Sections 22.18.1 through 22.18.14, which include lists of state anti-predatory lending laws and regulations, into new streamlined [Section 22.18.1](#). This new section refers only to the State and the particular anti-predatory lending law. This organizational change will allow Sellers to access the information they need faster and easier.

We are including in the new [Section 22.18.1](#), a provision that makes ineligible for purchase Mortgages with Note Dates on or after January 1, 2003 that are Colorado "covered loans" under the Colorado Consumer Equity Protection Act. To provide our customers with an opportunity to make any necessary operational changes, we will not enforce the Colorado provision until April 21, 2008.

Other changes

- New Section 22.34 has been created to reinforce Freddie Mac's long-standing position against mandatory arbitration clauses in Mortgage documents
- [Section 46.22](#) has been revised to require maintenance and submission of documents evidencing compliance with reasonable tangible net benefit requirements imposed by many States in connection with refinance Mortgages
- [Section 46.25](#) has been updated to require, in connection with HELOCs originated with concurrent financing, the Seller to maintain the HELOC agreement in the Mortgage file
- [Exhibit 26, Discretionary Provisions](#), has been updated to reflect the consolidation of Sections 22.18.1 through 22.18.14

Federal provisions impact insured depository institutions

The Guide is being updated to incorporate certain federal statutory provisions that apply when Freddie Mac engages in transactions with insured depository institutions. This new provision is intended to remind Sellers that are insured depository institutions of their ongoing obligation to have their boards of directors approve and/or authorize their contracts with Freddie Mac.

[Section 22.27](#) has been updated to reflect this change.

Endorsement requirements

In response to customer inquiries, we are adding additional guidance in connection with our Note endorsement requirements. Specifically, we are reinforcing that endorsements must be signed by a duly authorized officer of the Seller. If the Seller is a partnership or other type of organization that is not a corporation, the person endorsing the Notes must be duly authorized by the Seller, in accordance with the organization's constituent documents and applicable law, to take such action on behalf of the Seller.

[Section 16.4](#) has been updated to reflect this change.

Changes to Form 11 and Form 13SF

We are updating some of the instructions on [Form 11](#) and [Form 13SF](#), and in some cases deleting duplicative language, to provide more guidance regarding our requirements for completing certain fields.

Changes to Form 483 and Form 987E

The instructions to [Form 483](#) have been updated for clarity. We have also modified the form to require the authorizing signature to be notarized.

With this Bulletin, Form 987E is being incorporated into the Guide; [Section 19.4](#) is also being updated to reflect availability of the form through the Guide. In addition, we have made several changes to the form, including the addition of language requiring the authorizing signature to be notarized and updating the delivery address.

SELLING AND SERVICING CHANGES

Texas Equity Section 50(a)(6) Mortgages

Freddie Mac is including its requirements for the purchase Texas Equity Section 50(a)(6) Mortgages in the Guide. Seller/Servicers must be approved to sell Texas Equity Section 50(a)(6) Mortgages to Freddie Mac. The Seller/Servicer should request this approval by contacting its Freddie Mac representative or calling (800) FREDDIE.

Eligible Texas Equity Section 50(a)(6) Mortgages for sale to Freddie Mac must be:

- First Lien
- 15-, 20-, 30- or 40-year fixed-rate fully amortizing conventional Mortgages
- Originated on Fannie Mae/Freddie Mac Texas Home Equity Uniform Instruments
- Covered by title insurance in accordance with [Guide Chapter 39](#), including the Equity Loan Mortgage Endorsement (Form T-42) and the Supplemental Coverage Equity Loan Mortgage Endorsement (Form T 42.1)

Requirements for Sellers

Sellers must deliver Texas Equity Section 50(a)(6) Mortgages with **SCC 221**.

The Seller represents and warrants that all Texas Equity Section 50(a)(6) Mortgages comply with Section 50(a)(6) of Article XVI and related provisions of the Texas Constitution, as amended, and all other applicable laws. In connection with this representation and warranty, we strongly recommend that Seller/Servicers obtain advice from Texas legal counsel which confirms that Seller's lending and Servicing policies, procedures and practices are in compliance with Section 50(a)(6) of Article XVI of the Texas Constitution, all other applicable Texas Constitutional provisions, statutes, court decisions, regulations and rules and applicable State and federal law.

We will consider any of the following to be a breach of the Seller's representations and warranties that may result in our requiring the Seller to immediately repurchase the Mortgage:

- A forfeiture of any principal or interest due under the Mortgage
- The invalidation of the Mortgage as a First Lien
- The abatement of accrual of interest and the Borrower's obligations under the Mortgage
- A reduction in the principal amount of the Mortgage
- Any modification of the amount, interest rate, term or other provision of the Mortgage

Requirements for Servicers

Each Servicer must be a Tier 1 or Tier 2 Servicer or concurrently transfer Servicing to a Tier 1 or Tier 2 Servicer.

The Servicer must have adequate procedures in place to receive and respond timely to Borrower inquiries, claims of defects and other complaints received in connections with a Texas Equity Section 50(a)(6) Mortgage. Servicers must cure all curable defects in accordance with the provisions of Section 50(a)(6) of Article XVI of the Texas Constitution within the time period specified in Section 50(a)(6).

[Sections 6.7, 17.18, 24.1, 24.8, 39.1, 39.3, 51.3, 51.11, 59.1, 66.15, 67.15](#); [Exhibit 26, Discretionary Provisions](#); the [Glossary](#) and [Forms 11](#) and [13SF](#) have been added or updated to reflect this change.

Freddie Mac Exclusionary List

The Freddie Mac Exclusionary List will be posted on MIDANET, GoldWorks, MultiSuite and Loan Prospector on the first Business Day of each month beginning March 2008. Formerly, the Freddie Mac Exclusionary List was posted on the last Business Day of each month.

SERVICING CHANGES

Removing requirement that Servicers use designated counsel for foreclosures on and bankruptcies associated with Mortgages secured by 1-unit properties (with the exception of Manufactured Homes) in New Jersey and the New York City metropolitan area

In October 1994, in response to increasing volume and increasing foreclosure time lines, we mandated that all Servicers use designated counsel in the state of New Jersey in connection with bankruptcies associated with, and foreclosures on, 1- to 4-unit properties (with the exception of FHA/VA and recourse loans). In January 1998, faced with challenges similar to those in New Jersey, we added the same Servicer requirement in the New York City metropolitan area (Brooklyn, Bronx, Manhattan, Queens and Staten Island and the surrounding counties of Nassau, Rockland, Suffolk and Westchester).

Because of the strides that have been made to improve foreclosure timelines in New Jersey and the New York City metropolitan area, we are removing the requirement that Servicers use designated counsel in connection with bankruptcies associated with, and foreclosures on, 1-unit properties in these areas.

We will continue to require that all Servicers use designated counsel for foreclosures and bankruptcies on Manufactured Homes and 2- to 4-unit properties in New Jersey and the New York City metropolitan area. If a Servicer has poor time line performance, Freddie Mac reserves the right to require the Servicer to use designated counsel in connection with bankruptcies associated with, and foreclosures on, 1-unit properties in any designated counsel State.

[Sections 66.15](#) and [67.15](#) have been updated to reflect this change.

Changes to collection requirements – breach letters

To provide earlier notification of the severe repercussions of Delinquency and default, and further encourage Borrowers to immediately contact Servicers to explore their workout options and avoid foreclosure, we are changing the Guide to require that, effective March 1, 2008, Servicers send the breach letter (also known as the acceleration letter) to delinquent Borrower(s) no later than the 60th day of Delinquency.

This change is consistent with servicing best practices already employed by many Freddie Mac Servicers. Except for the change in timing of the breach letter, we continue to require that loss mitigation efforts continue after the breach letter is sent and we are **not** changing the timing requirements for referring Home Mortgages to foreclosure.

In connection with this change, effective April 1, 2008, we are requiring Servicers to report to Freddie Mac via EDR the date the breach letter was sent to the Borrower.

[Sections 64.6](#) and [64.10](#) have been updated to reflect this change.

Bankruptcy changes

Time frame for supplying bankruptcy counsel with requested documentation

[Chapter 66, Foreclosure](#), mentions that when foreclosure counsel or the foreclosure trustee requests documentation, Servicers must supply it within two Business Days. With this Bulletin, we are modifying [Section 67.7](#) to remind Servicers that they have the same responsibility to bankruptcy counsel.

Bankruptcy cramdowns

Chapter 11 and Chapter 13 reorganizations under the United States Bankruptcy Code pose the risk of a claim being impaired or “crammed down.” For this reason, we are adding a reference in [Section 67.7, Bankruptcy general requirements](#), to [Section 67.13, Bankruptcy cramdowns](#), to remind Servicers of their responsibilities when a Borrower’s reorganization plan requests a cramdown.

Designated counsel/trustee – two new Pennsylvania firms

Over the past several months we have expanded our designated counsel program. On January 8, 2008, we announced via e-mail that as part of our expansion of the designated counsel program we have added two new Pennsylvania designated counsel firms: McCabe, Weisberg & Conway, P.C. and Powers, Kirn & Javardian, LLC. These new firms began accepting new program referrals on February 1, 2008.

Contact information for the two new Pennsylvania firms has been added to the designated counsel/trustee list on FreddieMac.com available at http://www.freddie.mac.com/service/msp/desig_counsel.html.

Updated contact information on Exhibit 85

Contact information on [Exhibit 85](#) has been updated for First American Title Insurance Company and Old Republic National Title Insurance Company.