

# Bulletin

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NUMBER: 2009-16

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TO: All Freddie Mac Seller/Servicers

June 30, 2009

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## SUBJECTS

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

With this Bulletin, we are announcing that beginning **October 1, 2009**, Freddie Mac will no longer directly provide Note certification and custody services, and has selected The Bank of New York Mellon Trust Company, N.A. (BNYM) to perform such services for its Mortgages as Freddie Mac’s Designated Custodian (Designated Custodian). Among other things, this Bulletin describes the transition of certification responsibilities and custody of Notes to BNYM. The transition period begins October 1, 2009, and will extend to the effective date of the custodial relationship the Seller/Servicer must establish with either the Designated Custodian or another third-party Custodian. The effective date of either such arrangement is referred to in this Bulletin as the “Custodial Agreement Effective Date.”

The following topics related to this change are addressed in this Bulletin:

- Seller and Servicer responsibilities related to Note delivery, certification and custody during the transition period
- The process and requirements with respect to contracting with the Designated Custodian or, at the Seller/Servicer’s option, another third-party Custodian
- The announcement of a new Form 1035DC, *Designated Custodial Agreement: Single-Family Mortgages*, that must be used to establish a custodian relationship with BNYM
- Document custody fees and charges
- Other miscellaneous matters

As a result of this change, we are also announcing the following:

- Sellers selling Mortgages to Freddie Mac through the Freddie Mac Selling System (Selling System) Servicing Released Sales Process (SRSP) must establish a custodial relationship with the Designated Custodian and deliver Notes for such Mortgages to the Designated Custodian for certification
- Sellers must deliver the Intervening Assignments when delivering Notes for certification to the Document Custodian, including BNYM, in its capacity as vendor/agent for Freddie Mac or as Designated Custodian
- In connection with Transfers of Servicing or transfers of custody, Servicers must deliver the Intervening Assignments to the Document Custodian, including BNYM, in its capacity as vendor/agent for Freddie Mac or as Designated Custodian

## **Key Date - October 1, 2009**

As noted above, the transition period begins **October 1, 2009**, and:

- The Notes and related documents currently held by Freddie Mac at its Document Custodial Operations (DCO) facility will be moved to a BNYM vault on or before this date
- Beginning on this date, Sellers that use DCO to certify Notes and Sellers selling Mortgages under the Selling System SRSP must deliver the Notes and Intervening Assignments for certification to DCO, in care of BNYM at a new address. In addition, for Mortgages sold through MIDANET<sup>®</sup> Sellers must also deliver a separate data file (see “[Certification – sale of Mortgages](#)” below for additional information).
- BNYM, in its capacity as vendor/agent for Freddie Mac, will perform Note certification and custodial services for the Notes delivered or transferred to it beginning on this date and through the Custodial Agreement Effective Date

In addition, **on or before October 1, 2009**, each Seller/Servicer currently using DCO must submit either of the following:

- Form 1035DC and related forms to BNYM to establish a relationship with BNYM, as Designated Custodian (see “[Contracting with the Designated Custodian](#)” below for additional information); or
- Form 1035, *Custodial Agreement: Single-Family Mortgages*, executed by the Seller/Servicer and another Freddie-Mac approved third-party Custodian, to Freddie Mac requesting approval to enter into a custodial relationship with a third-party Custodian (see “[Contracting with another third-party Custodian](#)” below for additional information)

## **SELLER AND SERVICER RESPONSIBILITIES DURING THE TRANSITION PERIOD**

### **Through September 30, 2009**

For Sellers and Servicers currently using DCO, the Notes for Mortgages being sold to Freddie Mac or for which the Servicer acquires the Servicing, should continue to be delivered to DCO in accordance with existing Guide requirements.

Servicers should continue to deliver supplemental documents, return previously released documents to and request release of documents from DCO in accordance with existing instructions. Because Notes may be in transit to BNYM between the date of this announcement and early October, Servicers should provide as much notice as possible when requesting release of Notes to enable processing in a timely manner.

### **Between October 1, 2009 and the Custodial Agreement Effective Date**

Between October 1, 2009 and the Custodial Agreement Effective Date, BNYM, as Freddie Mac’s vendor/agent, will certify the Notes for Mortgages delivered to Freddie Mac (in care of BNYM) and provide other custodial services for Notes in its custody. Seller/Servicers should direct questions related to Note certification and other custodial matters to BNYM during this period by calling the BNYM Document Custody Support Line at (800) 211-2677.

Sellers and Servicers are advised that there may be delays in certification, funding and other services if documents and/or requests are not delivered in accordance with the following instructions.

Between October 1, 2009 and the Custodial Agreement Effective Date, Sellers and Servicers must use the following address when delivering Notes for certification to DCO, delivering supplemental documents or returning previously released documents:

Freddie Mac – Document Custodial Operations  
c/o The Bank of New York Mellon Trust Company, N.A.  
2220 Chemsearch Blvd., Suite 150  
Irving, TX 75062

*Certification – sale of Mortgages*

In connection with the delivery of Notes to Freddie Mac, beginning **October 1, 2009**:

- Sellers must also deliver the Intervening Assignments to BNYM for such Mortgages, unless the Mortgage is registered with MERS and the Seller elects to retain the assignments in its files, as provided in Guide [Section 22.14\(e\)](#).
- For Mortgages sold through the Selling System, Sellers will continue to assign the Note to DCO (“Custodian 9999999”) for certification

For Mortgages sold through MIDANET, the Seller must also provide a separate data file containing all of the data that must be certified for each Mortgage in the delivery. The data file must be in the form of an Excel spreadsheet and should be sent to the Designated Custodian via secure email or by emailing the file using a WinZip advanced encryption or 128-bit Advanced Encryption Standard (AES) with password protection. Please contact the Designated Custodian for further information and/or assistance.

The data file must include the following data elements in the order specified below:

<b>BNYM Data Term</b>	<b>Freddie Mac Form 1034/1034A Term</b>
1. Freddie Mac Loan Number	FHLMC Ln #
2. Seller/Servicer Number	Seller/Servicer number
3. Seller Loan Number	Seller Ln #
4. Date of Note	Note Date
5. Property Address	Property Street
6. City	Property City
7. State	St
8. ZIP	Zip code
9. Original Loan Amount	Loan Amt
10. Original Interest Rate	Interest Rate
11. Original P&I	P&I Amount
12. Date of First P&I Payment	1 <sup>st</sup> P&I
13. Original Maturity Date	Maturity Date
14. Original P&I Payment	P&I Amount
15. Borrower Name	Borrower Name
16. Co Borrower Name	Co-Borrower Name
17. Modification/Conversion Date	Mod/Conv date
For ARMs, include the following additional data elements	
18. Convertible	Convrt
19. First Rate Adjust Date	1 <sup>st</sup> Rate Adj
20. Index Source	Index
21. Index Lookback Days	Lookback
22. Note Margin	Mtg Margin
23. Interest Rate Rounded	% Round
24. First Rate Adjustment MAX	1 <sup>st</sup> Adj Max Initial Rate
25. First Rate Adjustment MIN	1 <sup>st</sup> Adj Min Initial Rate
26. Periodic Interest Rate Cap	Period Cap
27. Life of Loan Max Rate	Life Cap

In addition to the above, Sellers must comply with all other Guide requirements in connection with the delivery of Notes for certification, including:

- For Mortgages sold through MIDANET, the delivery of [Form 1034, Fixed-Rate Custodial Certification Schedule](#), or [Form 1034A, ARM Custodial Certification Schedule](#), as applicable
- For Mortgages sold through the Selling System, the delivery of Form 1034E, *Custodial Certification Schedule*, or Note Delivery Cover Sheet

*Release of documents/Transfer of Servicing or transfer of custody*

During the transition period, for Notes held by DCO and transferred to BNYM, Servicers must continue to submit requests for release of documents to DCO directly, in accordance with existing requirements. In addition, for Notes transferred to BNYM as a result of a Transfer of Servicing or transfer of custody, Servicers must deliver the Intervening Assignments in accordance with the requirements for Transfers of Servicing when utilizing a third-party Custodian, pursuant to Guide [Sections 18.6, 18.7](#) and [56.9](#).

### **Contracting with the Designated Custodian**

Beginning on **July 17, 2009**, Freddie Mac will email to Servicers currently using DCO to hold the Notes for Mortgages they service for Freddie Mac the materials necessary to enter into an agreement with BNYM as Designated Custodian (the Designated Custodian Registration Forms). The email will be addressed to the Primary Freddie Mac Business Contact as indicated on the [Form 16SF, Annual Eligibility Recertification Report](#). The Designated Custodian Registration Forms consist of the following documents:

- Form 1035DC
- Additional documents required by BNYM, including
  - Customer Verification Form (“Know Your Customer” form)
  - W-9, Request for Taxpayer Identification Number and Certification
  - Electronic Funds Transfer Authorization
  - Web Access/Release Request Authorization
  - Designated Custodian Fee Schedule

If you are an impacted Servicer and do not receive this email package by **July 24, 2009**, please contact Counterparty Credit Risk Management (CCRM) by email to [institutional\\_eligibility@freddiemac.com](mailto:institutional_eligibility@freddiemac.com) or by calling the CCRM customer service line at (571) 382-3434, Opt. 2.

In addition, Sellers electing to sell Mortgages to Freddie Mac through the Selling System SRSP must complete the Designated Custodian Registration Forms to establish a relationship with the Designated Custodian. Such Sellers must contact CCRM directly to arrange to receive the registration forms.

As indicated, documents in the Designated Custodian Registration Forms must be completed and signed as appropriate, and received by BNYM at the following address by **October 1, 2009**:

The Bank of New York Mellon Trust Company, N.A.  
ATTN: New Agreement Execution  
2220 Chemsearch Blvd., Suite 150  
Irving, TX 75062

Any questions regarding the Designated Custodian Registration Forms should be directed to BNYM via email at [FreddiemacCustodian@bnymellon.com](mailto:FreddiemacCustodian@bnymellon.com), or by calling the BNYM Document Custody Support Line at (800) 211-2677.

When review of the Designated Custodian Registration Forms is completed, Seller/Service providers will be notified of their Custodial Agreement Effective Date.

### **Contracting with another third-party Custodian**

A Seller/Service provider currently using DCO that elects to use a third-party Custodian other than BNYM should follow the procedures set forth in Guide [Chapter 18](#) with respect to contracting with a Document Custodian and transfers of custody. These procedures include, but are not limited to, submitting Form 1035, executed by the Seller/Service provider and the Document Custodian, to Freddie Mac.

After reviewing the Form 1035 and any other required documentation and approving the request, Freddie Mac will execute the Form 1035 and communicate the Custodial Agreement Effective Date to each Seller/Service provider electing to establish another third-party Custodian relationship.

Any questions regarding the Form 1035 should be directed to Freddie Mac via email to [institutional\\_eligibility@freddiemac.com](mailto:institutional_eligibility@freddiemac.com), or by calling the CCRM customer service line at (571) 382-3434, Opt. 2.

As noted above, the option to deliver Notes to another Document Custodian is not available for Mortgages being sold to Freddie Mac under the Selling System SRSP. These Notes must be sent to the Designated Custodian for certification and custody.

### **Document custody fees and service charges**

Prior to the Custodial Agreement Effective Date, Freddie Mac will continue to bill the Seller/Service provider for document custody fees and related charges pursuant to [Guide Section 18.8](#).

#### *Using the Designated Custodian*

Beginning with the Custodial Agreement Effective Date, BNYM, as the Designated Custodian, will bill the Seller/Service provider directly for custodial fees associated with certification and custody services occurring on or after that date. BNYM has agreed that it will not increase fees beyond the fee schedule set forth in [Guide Section 18.8](#) or impose additional charges prior to **September 1, 2010**, provided, however, that any request for expedited release of files or documents will be billed to the Seller/Service provider's courier account. Seller/Service providers completing Designated Custodian Registration Forms and submitting them to BNYM by **October 1, 2009** will not incur on-boarding (e.g., transportation or recertification) fees due to the transfer of Notes to the Designated Custodian.

#### *Using a third-party Custodian*

Seller/Service providers choosing to transfer custody to another Document Custodian must negotiate their fee structure directly with that Custodian, and should consult with that Custodian as to any on-boarding, recertification and other costs that might be associated with the transfer of custody. Seller/Service providers will be charged release fees, will incur expenses for shipping, and must have transit insurance for any Notes being shipped.

#### *Compensation for custodial services*

As a reminder, compensation for the custodial services is the sole responsibility of the Seller/Service provider. Failure to remit payments to the Document Custodian as required by the Guide is a breach of the Seller/Service provider's agreement with Freddie Mac and may be cause for termination or other adverse action.

### **Timing of data in selling system, receipt of Notes, timing of certification and settlement**

As always, to ensure timely funding, the Seller should submit the Notes and related data to the Document Custodian in sufficient time to permit certification, in accordance with the instructions in Guide [Section 16.8](#) and the [Document Custody Procedures Handbook](#), available in AllRegs. For service standards for the Designated Custodian, please refer to the Service Levels attached to Form 1035DC as Exhibit A.

Sellers delivering Notes to BNYM after **October 1, 2009** must provide BNYM no less than two business days' notice for deliveries involving more than 500 Notes in order for the Notes to be certified by the desired funding date. It is the Seller's responsibility to inform the Designated Custodian in advance of any deliveries in excess of 500 Notes and to deliver such Notes to the Designated Custodian within the time frames indicated by the Service Levels attached to Form 1035DC as Exhibit A. Seller/Service providers choosing to use the services of another Document Custodian must negotiate their service level agreement directly with that Custodian.

### **Form 16SF – Identity of Document Custodians that hold Notes on behalf of Freddie Mac**

[Form 16SF](#) automatically populates with information Freddie Mac has on record. The Seller/Service provider must verify the accuracy of the information and correct it as necessary. For Seller/Service providers currently using DCO, until the Custodial Agreement Effective Date, the [Form 16SF](#) should indicate that Freddie Mac holds the Notes.

Inquiries on the [Form 16SF](#) should be directed to CCRM by either email to [institutional\\_eligibility@freddiemac.com](mailto:institutional_eligibility@freddiemac.com), or by calling the CCRM customer service line at (571) 382-3434, Opt. 2.

### **Special Provisions**

Seller/Service providers with special provisions in their Purchase Documents related to custodial matters must inform their new Document Custodian (either the Designated Custodian or other third-party Document Custodian, as applicable) as to the content of those provisions. Seller/Service providers should provide the special provision(s) to the Designated Custodian by email to [FreddiemacCustodian@bnymellon.com](mailto:FreddiemacCustodian@bnymellon.com).

### **Functions that will remain at Freddie Mac**

Freddie Mac will continue to perform oversight of document custody program requirements and overall management of the certification processes and requirements. As such, all Document Custodians will continue to submit to Freddie Mac the following completed and executed forms, as applicable:

- In connection with the sale of Mortgages to Freddie Mac through MIDANET, Forms [1034S](#), *Custodian Certification Schedule Summary*, and [1034SM](#), *Custodian Certification Summary for Multiple Purchase Contracts*, upon verifying the documents and performing the certifications required in accordance with Guide [Section 18.6](#)
- [Form 1034B](#), *Custodian Certification Schedule – Balloon Loan Modification*, upon certifying the information contained in a Balloon Loan Modification, in accordance with the requirements of Guide [Section 83.103](#)
- [Form 1034T](#), *Subsequent Transfer Custodial Certification Schedule*, upon performing the verifications and certifications in connection with a Transfer of Servicing/transfer of custody

DCO will continue to:

- Process requests for assistance with Mortgage discharges, satisfactions, releases of lien or similar and other matters related to the chain of title for Mortgages owned by Freddie Mac when we are identified as the lien holder in the land records. Please use the Request for Assistance form found on our web page at <http://www.freddiemac.com/cim/docex.html>.
- Process MERS Transfer of Beneficial Rights and resolve issues concerning transactions affecting Freddie Mac on the MERS residential system

## **REVISIONS TO THE GUIDE**

We will be updating applicable Guide chapters with a future Bulletin to reflect these changes.

## **CONCLUSION**

If you have any questions about the matters addressed in this Bulletin, please contact your Freddie Mac representative or call (800) FREDDIE.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia J. McClung". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Patricia J. McClung  
Vice President  
Offerings Management