

Bulletin

NUMBER: 2009-28

TO: All Freddie Mac Servicers

December 14, 2009

SUBJECTS

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

- Providing information and direction in support of the United States Department of the Treasury (“Treasury”) Mortgage Modification Conversion Drive announced on November 30, 2009
- Announcing the following changes to the **Home Affordable Modification Program (“HAMP”)**:
 - Revisions to the new HAMP documents first introduced in Supplemental Directive 09-07 (“SD 09-07”) (“Home Affordable Modification Program: Streamlined Borrower Evaluation Process”) announced by the Treasury on **October 8, 2009**, and other additional guidance with respect to such documents. We are also announcing Spanish translations of certain HAMP documents.
 - Additional guidance with respect to the requirements specified in SD 09-07
 - Additional options for Servicers to obtain Treasury Net Present Value (“NPV”) results
 - Servicer compliance obligations with respect to Supplemental Directive 09-08 (“SD 09-08”) (“Home Affordable Modification Program: Borrower Notices”), announced by Treasury on **November 3, 2009**
 - New requirements with respect to, an electronically signed Home Affordable Modification Agreement (Form 3157, 3/09 (rev. 8/09)) (“Modification Agreement”)
- Announcing that we are revising our Servicing requirements to change the capitalization threshold on **all Mortgages being modified** to determine when title insurance must be obtained and when recordation of the modification agreement is required. This change also applies to Mortgages being modified under HAMP.

EFFECTIVE DATES

All changes included in this Bulletin are effective immediately except as otherwise noted.

MORTGAGE MODIFICATION CONVERSION DRIVE

As part of the effort to convert current trial period plans to permanent HAMP modifications for as many eligible Borrowers as possible by the end of 2009, Treasury is providing ongoing guidance to help clarify HAMP requirements. This guidance is in the form of a frequently asked questions (FAQs) document posted on HMPadmin.com under the title HAMP 2009 Conversion Campaign FAQs. Unless otherwise notified by Freddie Mac, Servicers must comply with the guidance in these new HAMP 2009 Conversion Campaign FAQs and should check the HMPadmin.com web site daily for updates.

With respect to other FAQs issued by Treasury on HMPadmin.com that are not expressly related to the HAMP 2009 Conversion Campaign, Freddie Mac is reviewing those non-Government Sponsored Enterprise (“GSE”) FAQs to determine whether to adopt them and will announce additional information if applicable in a future Bulletin and update Guide Chapter C65, *Home Affordable Modification Program*.

HAMP DOCUMENTS

Treasury has revised the new HAMP documents that were first introduced in SD 09-07, the latest versions of which are posted to the Borrower Solicitation section of our HAMP web site at http://www.freddiemac.com/singlefamily/service/mha_modification.html.

The new SD 09-07 HAMP documents are:

- Form 1114, *Making Home Affordable Program Request for Modification and Affidavit* (“RMA”)
- Form 1115, *Making Home Affordable Program Hardship Affidavit* (“MHA Hardship Affidavit”)
- Form 1116, *Home Affordable Modification Program Trial Period Plan Notice (Stated Income)* (“Trial Period Plan Notice – Stated”)
- Form 1117, *Home Affordable Modification Program Trial Period Plan Notice (Verified Income)* (“Trial Period Plan Notice – Verified”)

In this Bulletin, “Trial Period Plan Notice” refers to either the Trial Period Plan Notice – Stated or the Trial Period Plan Notice – Verified. References to “trial period plan” in this Bulletin mean the terms and conditions of a trial period plan set forth in either a Trial Period Plan Notice or the Home Affordable Modification Trial Period Plan (Form 3156).

For additional information on the use of these new HAMP documents, refer to the section of this Bulletin below titled “Additional Guidance on SD 09-07.”

HAMP documents - electronic transactions

The new SD 09-07 HAMP documents are considered “loss mitigation documents” under Guide Sections 50.3.1, *Acknowledgment and Consent to Electronic Transactions*, and C65.5, *Borrower Solicitation*. These documents may be prepared, signed and sent electronically by a Servicer to a Borrower or by a Borrower to the Servicer in compliance with the requirements applicable to loss mitigation documents sent and/or signed electronically, as described in the referenced Guide sections.

Spanish translations of HAMP documents

We are also announcing that Spanish translations of the following HAMP documents are now available:

- Modification Agreement (Form 3157) and authorized changes to the Modification Agreement
- Home Affordable Request for Modification and Affidavit (RMA) (Form 1114)
- MHA Hardship Affidavit (Form 1115)

The Spanish translation of the Modification Agreement (Form 3157s) and authorized changes to the Modification Agreement have been posted to our Uniform Instruments web site at <http://www.freddiemac.com/uniform/spanish.html#hamp>. The Spanish translations of the RMA, (Form 1114s) and the MHA Hardship Affidavit, (Form 1115s) have been posted to our web site at http://www.freddiemac.com/singlefamily/service/hmp_solicitation.html.

Spanish translations of the HAMP-related documents and the authorized changes for the Modification Agreement (Form 3157) supplement the English-language documents and may be provided to consumers as supplemental educational material when modifying Mortgages under HAMP. The Spanish translations of all HAMP-related documents are for reference only and may not be executed by the Borrower or otherwise used in lieu of the English-language documents. The Servicer must only obtain completed English-language HAMP documents from the Borrower.

Spanish translations of other HAMP-related documents will be posted to our HAMP web site as they become available.

ADDITIONAL GUIDANCE ON SD 09-07

We are providing the following additional guidance with respect to SD 09-07, which Servicers must implement subject to the effective dates set forth below:

■ **Income documentation and verification requirements for imminent default evaluations**

In Bulletin 2009-26, dated November 2, 2009, Freddie Mac instructed Servicers to comply with the income documentation and verification requirements announced in SD 09-07 for Borrowers who are 31 days or more delinquent. With this Bulletin, we are announcing a change to the income documentation requirements for Borrowers who must first be evaluated for imminent default.

Servicers must obtain the Borrower's most recently filed signed federal income tax return or a tax transcript by processing the IRS Form 4506-T, *Request for Transcript of Tax Return*, to obtain a tax transcript that includes information from all schedules and forms. If a Borrower submits an unsigned tax return, evidence of an electronically filed tax return is considered acceptable to satisfy this requirement; otherwise, the Borrower must sign the tax return. If the Servicer is unable to obtain the tax transcript after submitting the IRS Form 4506T, the Servicer must obtain the most recently filed signed federal income tax return from the Borrower and the Borrower must provide evidence that the return provided to the Servicer was filed with the IRS. **Note:** A Servicer may obtain and process a Borrower-signed IRS Form 4506T-EZ, *Short Form Request for Individual Tax Return Transcript*, in lieu of any requirement in this Bulletin or Chapter C65 to obtain or process a Borrower-signed IRS Form 4506-T.

Servicers are reminded that they must review all Borrower submitted documentation and compare them to the information in the tax return or tax transcript to identify any inconsistencies. If there are inconsistencies, the Servicer must obtain from the Borrower any other documentation necessary to reconcile the inconsistencies.

Servicers must continue to comply with all other income documentation and verification requirements specified in Chapter C65 for Borrowers who must first be evaluated for imminent default.

Freddie Mac will provide additional guidance in a future Bulletin with respect to the income documentation and verification requirements specified in SD 09-07 for evaluating Borrowers where imminent default must first be determined.

Verification of assets

When evaluating a Borrower for imminent default, the Servicer must determine that all of the Borrower's Cash Reserves have been accounted for on the RMA or Form 1126, *Borrower Financial Information*, and verified.

In verifying and making the determination that all Cash Reserves have been accounted for, Servicers must review the Borrower's federal income tax return or tax transcript, including information from applicable schedules (i.e., Schedules B - *Interest & Ordinary Dividends*, D - *Capital Gains & Losses*, E - *Supplemental Income & Loss*) and all other available information provided by the Borrower to determine if the asset information stated on the RMA or Form 1126 is reasonably consistent with information available from the tax return or tax transcript, or other information. The Servicer must ensure that the Borrower's disclosure of assets is consistent with the interest, dividend income or gain/loss information reflected in the tax return information.

If, upon reviewing the Borrower's tax return or tax transcript, the Servicer observes interest, dividend income or gains/losses that, in total, could not be reasonably produced by the Borrower's disclosed reserves and would indicate deposits, securities holdings or other assets that could be in excess of the amounts disclosed by the Borrower on the RMA or Form 1126, the Servicer must reconcile the inconsistency with the Borrower and require the Borrower to produce relevant documentation (e.g., checking, savings, brokerage account statements, asset sale statements or records, etc.) that verifies the disposition and or current status of those assets producing income or gains/losses. If the Servicer obtained a tax transcript in lieu of a tax return, the Servicer must also require the Borrower to produce the signed federal tax return (and all relevant schedules). In determining what documentation is needed to reconcile the inconsistency, the Servicer must review the detailed schedules from the tax return and request from the Borrower copies of recent and past statements from those asset holdings or transactions indicated on the schedules that produced the income or gain/loss.

Additionally, for new HAMP evaluations on and after March 1, 2010, Servicers may no longer use Form 1126, *Borrower Financial Information*, and must use the RMA to collect a Borrower's financial information.

■ **Form 1114, RMA**

As indicated in Bulletin 2009-26, Servicers must accept immediately the RMA when provided by or on behalf of any Borrower.

When a Servicer provides a Borrower with a Trial Period Plan Notice, the Servicer must obtain either the RMA, or, prior to March 1, 2010, the new Form 1115, *MHA Hardship Affidavit*. The current Form 1122, *HAMP Hardship Affidavit*, may not be used in conjunction with the new Trial Period Plan Notice. Therefore, Servicers should consider implementing the RMA earlier than **March 1, 2010** so that the Servicer may rely on the RMA when sending out Trial Period Plan Notices on or after **March 1, 2010**.

For Borrowers being evaluated for imminent default, Servicers must obtain either the RMA or Form 1126, *Borrower Financial Information*, when obtaining the Borrower's financial information for HAMP evaluations. However, beginning **March 1, 2010**, Form 1126 may not be used for new HAMP evaluations.

■ **Trial Period Plan Notices**

As provided in SD 09-07, Borrowers are not required to sign or return the new Trial Period Plan Notice. Servicers must retain a copy of the Trial Period Plan Notice sent to the Borrower in the Mortgage file and record the date that it was sent to the Borrower. Timely receipt of the first payment due under the Trial Period Plan Notice is evidence of the Borrower's acceptance of the trial period plan terms and conditions.

■ **Form 3156, Trial Period Plan**

We are also revising our requirements for existing Form 3156, *Home Affordable Modification Trial Period Plan*, to align with the new requirements under SD 09-07. A Servicer may discontinue using Form 3156 and begin using Trial Period Plan Notices immediately. However, on or after **March 1, 2010**, a Servicer may no longer use Form 3156 and must use a Trial Period Plan Notice when sending a trial period plan offer to a Borrower.

Finally, under the revised requirements, a Borrower who has been sent a Form 3156, *Trial Period Plan*, but does not sign and return the Form 3156 prior to the end of the Trial Period, may receive a HAMP modification as long as the Servicer has:

- Received all required Trial Period payments prior to the end of the Trial Period
- Received all HAMP-required income and other documentation from the Borrower, including a fully executed Home Affordable Modification Agreement

- Verified that the Borrower is eligible under all Chapter C65 HAMP eligibility requirements (including, as applicable, the revised NPV and Forbearance Limit requirements set forth in Bulletin 2009-26 published on November 2, 2009) based on the Borrower's submission of all HAMP-required income and other documentation

- **Expiration of documents**

Beginning **March 1, 2010**, the RMA and the new Trial Period Plan Notices respectively replace the following forms:

The RMA replaces the:

- *HAMP Hardship Affidavit*, Form 1122
- *MHA Hardship Affidavit*, Form 1115
- *SIGTARP Fraud Notice*, Form 1125

The Trial Period Plan Notices (Stated and Verified Income) replace the:

- *HAMP Trial Period Plan*, Form 3156
- *HAMP Trial Period Plan Cover Letter – Stated*, Form 1123
- *HAMP Trial Period Plan Cover Letter – Verified*, Form 1124

On and after March 1, 2010, Servicers may no longer use the forms noted above that are being replaced by the RMA and the Trial Period Plan Notices.

- **Document authenticity**

Servicers must use good business judgment when determining whether verification documents are authentic and accurate, and allow the Servicer to underwrite the Borrower in accordance with Chapter C65 and applicable HAMP Bulletins. Servicers may elect to accept documentation with imperfections (blank fields, erasures, use of correction tape, inaccurate dates, etc.) if the Servicer determines that the imperfections are immaterial to the business decision, are not indicative of fraud and do not impact the Servicer's ability to verify the completeness and accuracy of the Borrower's financial representations.

- **Seasoning requirements**

- **Income documentation**

Under the revised requirements, documentation of a Borrower's income may not be more than 90 days old as of the date that the Servicer receives such documentation in connection with evaluating a Mortgage for a modification under HAMP. Servicers are not required to update such documentation during the remainder of the Trial Period.

- **Property values**

The property value that the Servicer inputs into Workout Prospector[®] must be the value obtained in accordance with the collateral valuation requirements of Section C65.6, as amended by this Bulletin. The property value must be less than 90 days old on the date the Servicer performs the **initial** Treasury NPV test when qualifying the Borrower for a HAMP trial period plan. Therefore, a Servicer must ensure that the property value used during any initial evaluation steps does not subsequently become more than 90 days old by the time the Servicer inputs the property value into the Treasury NPV Model. Servicers are not required to update the property valuation during the remainder of the Trial Period for any subsequent NPV evaluation.

OPTIONS FOR OBTAINING TREASURY NPV VALUES

Servicers may use the following options when obtaining a Treasury NPV value:

- Servicers may submit Mortgage data to the Treasury NPV Model available on the Home Affordable Modification Program servicer web portal accessible through <http://www.HMPadmin.com>. Detailed guidelines for submitting proposed modification data for evaluation are also available on this portal. Each Servicer using the Treasury NPV Model available on the Home Affordable Modification Program servicer web portal represents and warrants that it is using the most current version of the Treasury NPV Model when processing a new evaluation for a modification under HAMP, and that the data input into the Treasury NPV Model is accurate and has been input accurately.
- Eligible Servicers, as defined in Supplemental Directive 09-01 announced by Treasury on April 6, 2009, may request permission from Freddie Mac in its role as compliance agent (Compliance Agent), to replicate a system/model to reflect the latest version of the Treasury NPV Model to determine whether a proposed modification meets Freddie Mac's HAMP requirements

Before a Servicer may replicate the Treasury NPV model into its own system, the Servicer must provide their Freddie Mac Default Asset Management account representative with a copy of the most recent written approval the Servicer received from the MHA Compliance Agent. The Compliance Agent's written approval must certify that the Servicer's Treasury NPV model is built in accordance with Treasury's NPV model specifications and requirements, and that the Servicer is authorized to use its system to determine a modification's eligibility under Treasury's HAMP guidelines (Certified Treasury Servicer NPV Model). Each time a Servicer uses its Certified Servicer Treasury NPV Model to determine whether a proposed modification of a Mortgage is eligible under Freddie Mac's HAMP requirements, it represents and warrants to Freddie Mac that:

- The Compliance Agent's written approval continues to be valid with respect to the Certified Servicer Treasury NPV Model used
- It used the most current release of the Treasury NPV Model in its own system, subject to the Treasury requirements concerning the effective dates for required implementation of any upgrades or changes to the Treasury NPV Model
- Its results are accurate
- It used the discount rate as specified by Freddie Mac
- It did not change any of the Treasury base Model assumptions including, but not limited to, default or re-default rate, home price projections and REO discount assumptions

The Servicer may not use its Certified Treasury Servicer NPV Model to evaluate Freddie Mac-owned Mortgages if the Servicer has changed any of the Treasury base Model assumptions. In this case, the Servicer must use the Treasury NPV Model that is available through the Home Affordable Modification Program Servicer web portal, even with prior written approval from the Compliance Agent.

Servicers are reminded that, in accordance with Bulletin 2009-26, in the instances where stated income was used to prepare and send a Trial Period Plan Notice, if verified income differs from the stated income, Servicers must run the proposed modification terms through the Treasury NPV Model or the Certified Servicer Treasury NPV Model again using the **same major Treasury NPV Model version** that was used to qualify the Borrower for the Trial Period.

SUPPLEMENTAL DIRECTIVE 09-08 (“HOME AFFORDABLE MODIFICATION PROGRAM: BORROWER NOTICES”) (“SD 09-08”)

On November 3, 2009, Treasury issued SD 09-08, which provided Servicers with additional guidance related to the format, content and timing of notices that must be provided to Borrowers whom Servicers determine are not eligible for HAMP, have fallen out of the HAMP process or are about to fall out of the HAMP process (“Borrower Notice”). With this Bulletin, we are advising Freddie Mac Servicers that they must comply with the requirements set forth in SD 09-08 on and after **January 1, 2010**. However, Servicers are encouraged to implement this guidance as soon as possible.

Pursuant to SD 09-08, a Servicer must send a Borrower Notice to every Borrower who: has been evaluated for HAMP but is not offered a trial period plan or a HAMP modification; has defaulted under the terms of the trial period plan; has satisfied or reinstated the Mortgage without completing a HAMP modification; has voluntarily withdrew or rejected a modification offer; or is at risk of losing eligibility for HAMP because the Borrower has failed to provide required financial documentation. As with all communications with Borrowers, the Borrower Notice must comply with all applicable federal, State, and local laws, rules and regulations.

With the exception of the Notice of Incomplete Information, Borrower Notices must be mailed no later than 10 business days following the date of the Servicer’s determination that a trial period plan or HAMP modification will not be offered. In cases where a Borrower was not approved for a HAMP trial period plan because the modification did not pass the NPV test, the Borrower may have the right to question the NPV calculation and the foreclosure timeline must be extended in order to allow the Borrower time to do so.

The content of the Borrower Notices will vary depending on the information to be conveyed or the determination made by the Servicer. All Borrower Notices must be written in clear, non-technical language, with acronyms and industry terms, such as “NPV,” explained in a manner that is easily understandable. The explanation(s) must **relate to** one or more of the Not Approved/Not Accepted reason codes specified in Schedule IV of Supplemental Directive 09-06 (Home Affordable Modification Guidelines: Data Collection and Reporting Requirements Guidance). Model clauses for reasons that relate to these codes are attached as Exhibit A to SD 09-08 and posted on www.HMPadmin.com. Use of the model clauses is optional; however, they illustrate a level of specificity that is deemed to be in compliance with the language requirements of SD 09-08 and this Bulletin.

Borrower Notices may be sent electronically only if the Borrower has previously agreed to exchange correspondence relating to the modification with the Servicer electronically. Borrower Notices are considered “loss mitigation documents” under Sections 50.3.1 and C65.5, and must comply with the requirements applicable to loss mitigation documents sent and/or signed electronically.

Servicers should refer to SD 09-08 for complete requirements and additional information with respect to determining when a Servicer must send a Borrower Notice and the requirements for content of a Borrower Notice.

ELECTRONIC TRANSACTIONS CONDUCTED BETWEEN SERVICER AND BORROWER

As mentioned earlier in this Bulletin, the new SD 09-07 HAMP documents (Freddie Mac Forms 1114, 1115, 1116, and 1117) and SD 09-08 Borrower Notices are considered “loss mitigation documents” under Sections 50.3.1, and C65.5. As such, these documents may be prepared, signed and sent electronically by a Servicer to a Borrower or by a Borrower to the Servicer in compliance with the requirements applicable to loss mitigation documents sent and/or signed electronically, as described in the referenced Guide sections.

All electronic loss mitigation documents, and any other electronic Mortgage file documents (“Electronic Records”), must be capable of being retrieved and printed in a manner that accurately reflects the information originally contained in the Electronic Records. All Electronic Records must be accessible (either electronically or on paper) and promptly made available to Freddie Mac, as investor and in its role as HAMP Compliance Agent for Treasury, upon request.

Home Affordable Modification Agreement

Currently, Chapter C65 provides that the Home Affordable Modification Agreement is not considered a “loss mitigation document.” With this Bulletin, we are revising the Guide to provide that Form 3157, *Home Affordable Modification Agreement* is also considered a “loss mitigation document” (“HAMP eModification Agreement”), under Sections 50.3.1 and C65.5, subject to the requirements published by Treasury in its eSign business requirements document dated November 2, 2009 (which is available at <https://www.hmpadmin.com/portal/docs/esignatures/esignbusinessrequirements.pdf>), except as modified or supplemented by the requirements of this Bulletin and Sections 50.3.1 and C65.5.

Special representations and warranties – HAMP eModification Agreement

A Servicer allowing Borrowers to receive, transmit or electronically sign a HAMP eModification Agreement represents and warrants to Freddie Mac that it has complied with the requirements of this Bulletin and the Guide and that the HAMP eModification Agreement is authentic, its terms are valid and enforceable against the Borrower, and the Mortgage maintains a First Lien position.

Restrictions on the use of a HAMP eModification Agreement

A HAMP eModification Agreement may, but is not required to be a Category 3 SMARTDoc (v1.02), unless the recording jurisdiction requires that format and Chapter C65 requires the Modification Agreement to be recorded or in recordable format.

Servicers may **not** use a HAMP eModification Agreement if:

- The Mortgage, as modified by the HAMP eModification Agreement, would be invalid or unenforceable or would no longer be in First Lien position
- A new Borrower is added to the original Note
- An existing Borrower is released from the original Note
- A Borrower is currently engaged in litigation other than a foreclosure action with Freddie Mac involving the Mortgage
- The jurisdiction in which the HAMP eModification Agreement would be recorded does not permit or provide for recordation of electronic documents and Chapter C65 requires the Modification Agreement to be recorded or in recordable form
- The Servicer is unable to comply with the recording jurisdiction’s recordation and formatting requirements for an electronic document, and Chapter C65 requires the Modification Agreement to be recorded or in recordable form

A Servicer of a Mortgage with an electronic Note or eNote (an “eMortgage”) must contact their Freddie Mac representative for requirements regarding the use of a HAMP eModification Agreement to modify an eMortgage.

Any costs resulting from a Servicer choosing to use a HAMP eModification Agreement will not be reimbursed by Freddie Mac and may not be assessed to a Borrower.

See Attachment A, *Additional Terms Applicable to HAMP eModification Agreements*, attached to this Bulletin for additional general requirements applicable to HAMP eModification Agreements, including requirements applicable to all Freddie Mac HAMP eModification Agreements, requirements regarding when the Modification Agreement must be recorded or in recordable format, custodial requirements, requirements related to the transfer of servicing of Mortgages modified using HAMP eModification Agreements and requirements for storage and safekeeping of HAMP eModification Agreements.

REVISIONS TO LOAN MODIFICATION REQUIREMENTS FOR ALL MORTGAGES

We are revising our loan modification requirements to increase the capitalization threshold from \$20,000 to \$50,000 (aggregate capitalized amount of all modifications of the Mortgage), for purposes of determining whether title insurance must be obtained and recordation of the modification agreement required. This change is applicable to modifications under HAMP and modifications completed pursuant to Chapter B65, *Workout Options*.

Servicers must continue to follow all other requirements specified in Section B65.20, *Modified Mortgage Conditions*, and Section C65.7(c), *Modification Process*, as they relate to title insurance and recordation requirements, including ensuring that the modified Mortgage retains First Lien position.

BULLETIN ATTACHMENTS

Attachment A, *Additional Terms Applicable To HAMP eModification Agreements*, has been published with this Bulletin and contains additional HAMP requirements.

GUIDE REVISIONS

Chapters B65, C65 and other applicable Guide sections will be updated in a future Bulletin to reflect these changes.

CONCLUSION

Freddie Mac remains focused on assisting troubled Borrowers with Freddie Mac-owned Mortgages avoid preventable foreclosure. The changes announced in this Bulletin are part of our ongoing efforts to promote sustainable homeownership and stabilize communities and neighborhoods across the nation.

If after reviewing this Bulletin you have any questions about HAMP or Freddie Mac's role in the Program, please contact your Freddie Mac representative or call (800) FREDDIE.

Sincerely,



Patricia J. McClung
Vice President
Offerings Management

Additional Terms Applicable to HAMP eModification Agreements

General Requirements Applicable to all Freddie Mac HAMP eModification Agreements

Servicers must:

- Process, modify and store HAMP eModification Agreements of Freddie Mac-owned Mortgages electronically under no less stringent requirements than the Servicer follows when electronically processing, modifying and storing its own mortgages in its portfolio
- Consult with their legal counsel to ensure that the Servicer's use, processing, and storage of a HAMP eModification Agreement complies with all applicable federal, State, and local laws, including, without limitation, the federal Electronic Signatures in Global and National Commerce ("E-Sign") Act and/or the Uniform Electronic Transactions Act (UETA), as enacted in the local jurisdiction, the Gramm-Leach-Bliley Act, and its implementing regulations, and other applicable privacy, disclosure, and data security laws and regulations
- Provide for electronic notarization when required, subject to applicable law
- Be able to comply with all *Single-Family Seller/Servicer Guide* ("Guide") requirements to service the Mortgage, as modified by a HAMP eModification Agreement, including, but not limited to, servicing obligations related to payoff (e.g., cancellation of the Mortgage, Note and HAMP eModification Agreement), grant of a deed-in-lieu of foreclosure, foreclosure, repurchase of an electronically modified Mortgage, and litigation
- Notify Freddie Mac when initiating legal action, including foreclosure, on a Mortgage that has been electronically modified, and further, must use counsel that has the experience or demonstrated ability to enforce claims under electronically created mortgages, notes or other financial instruments

Additional requirements when the HAMP Modification Agreement must be recorded or in recordable format

When Guide Section C65.7(e) requires a HAMP Modification Agreement to be recorded or in recordable format, a Servicer may use a HAMP eModification Agreement, provided the Servicer is able to record the HAMP eModification Agreement in compliance with the recording jurisdiction's recordation and electronic format requirements.

Document custodial requirements

Upon execution of a HAMP eModification Agreement, Servicers must provide a copy of the executed HAMP eModification Agreement (**explicitly designated as a copy**) to its Document Custodian in a paper or other format that is acceptable to the Document Custodian, to be maintained with the Note.

If recordation is required, Servicers must provide a copy of the recorded HAMP eModification Agreement or a copy of any evidence of recordation together with a copy of the executed HAMP eModification Agreement to its Document Custodian.

Storage and safekeeping of HAMP eModification Agreements

HAMP eModification Agreements (including printed paper copies of facsimiles of HAMP eModification Agreements) must be stored in accordance with the Guide requirements for storing Mortgage file documents. HAMP eModification Agreements must be associated with all paper Mortgage file documents so that all servicing records (both paper and electronic) are identified with, and associated to, the particular Mortgage transaction.

Transfers of Servicing

Upon a Transfer of Servicing of a Mortgage that has been modified electronically, the Transferor Servicer must indicate on Form 981, *Agreement for Subsequent Transfer of Servicing of Single-Family Mortgages*, that the original Mortgage documents are electronic, provide a list of such Mortgages and indicate the name of the repository holding the original Mortgage documents.

Data security requirements and data privacy protection

Servicers must follow the data security requirements in Guide Section 1.3, *Acknowledgment and Consent to Electronic Transactions*, and the data privacy protection standards in Section 53.3, *Confidential Information; Privacy; Conflicts of Interest; Misuse of Material Information; Security of Information*.

Servicers are required to maintain their Servicing records storage system and conduct periodic information security reviews of their data stored and maintained in their Servicing records storage system based on, but not limited to, applicable federal, State and local laws and regulations and the Guide.

Freddie Mac reserves the right to require a Servicer to implement additional security measures regarding its Servicing records storage system.

Disaster Recovery/Business Continuity Plan

Servicers must create and maintain a Disaster Recovery/Business Continuity Plan ("DR/BCP") that includes a backup storage site that is not susceptible to the same types of major disasters as the primary storage site. The DR/BCP must provide for recovery of functionality, availability, and data services back to the point of failure within a commercially reasonable period of time (usually within 48 hours of a disaster).