

# Bulletin

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NUMBER: 2009-4

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TO: All Freddie Mac Sellers and Servicers

February 20, 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 making the following changes to our [selling requirements](#):

- Announcing that we will require Sellers to submit a [certificate of incumbency form](#) that identifies the person(s) authorized to provide Freddie Mac with instructions to transfer funds or securities in connection with the sale of Mortgages to Freddie Mac
- Requiring all Sellers to remit payments for Seller fees via an [Automated Clearing House \(ACH\) draft](#)

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

- Providing further guidance regarding the preparation and filing of [IRS Form 1099-MISC](#)

We are also updating [Guide Exhibit 4, Uniform Instruments](#), to include the Uniform Instruments introduced for use in connection with the Streamlined Modification Program: the *Streamlined Modification Program Loan Workout Plan and Modification Agreement* (announced in our [December 12, 2008 Bulletin](#)) and the *Streamlined Modification Program Loan Workout Plan Pending Rate Adjustment* (announced in our [January 9, 2009 Bulletin](#)).

As announced January 28, 2009, the *Streamlined Modification Program Loan Workout Plan and Modification Agreement – Single-Family – Fannie Mae/Freddie Mac Uniform Instrument, Form 3169, 12/08 (rev.1/09)* has been updated.

## Effective dates

All of these changes are effective immediately except:

With respect to the new **certificate of incumbency** requirements:

- **May 31, 2009** – Sellers must provide Freddie Mac with a certificate of incumbency and a board of directors resolution or other governing body resolution, as applicable, designating certain persons as authorized and empowered to provide Freddie Mac with instructions (or modify instructions) to transfer funds or securities on the Seller’s behalf in connection with the sale of Mortgages to Freddie Mac, and meet other related requirements, no later than this date
- **June 1, 2009** – Person(s) providing Freddie Mac with instructions to transfer funds or securities by wire transfer, ACH or other payment system in connection with the sale of Mortgages to Freddie Mac and the person identified as the Freddie Mac Selling System (“Selling System”) Setup Manager must be designated as one of the “Authorized Persons” on the Seller’s certificate of incumbency and resolution, on or after this date

With respect to the requirement to **remit Seller fees by ACH draft**:

- **June 1, 2009** – All Seller fees must be paid with an ACH draft, effective with Seller fees billed on or after this date

## SELLING REQUIREMENTS

### New certificate of incumbency forms and new requirements with respect to instructions to transfer funds

As part of our ongoing commitment to improve our processes and security measures for Freddie Mac and our Seller/Servicers, we are announcing that, no later than **May 31, 2009**, Sellers must provide Freddie Mac with a certificate of incumbency – new Guide Form 988SF, *Corporation or Limited Liability Company Certificate*, or Form 989SF, *Sole Proprietorship or Partnership Certificate* – and a copy of a resolution by the board of directors or other governing body, as applicable. The resolution must be in the form provided by Freddie Mac, unless applicable law requires another form of resolution. This required documentation will designate the persons who are authorized and empowered to provide Freddie Mac with instructions to transfer funds or securities by wire transfer, ACH or other payment system approved by Freddie Mac in connection with the sale of Mortgages to Freddie Mac.

The applicable certificate of incumbency must be executed with pen and ink, while the board of directors resolution or other governing body resolution may be a copy attached as an exhibit to the certificate of incumbency. Sellers that need additional space to identify “Authorized Persons” on the certificate of incumbency should use new Form 988ASF, *Addendum to Certificate of Incumbency (Corporation or Limited Liability Company Certificate)*, or Form 989ASF, *Addendum to Certificate of Incumbency (Sole Proprietorship or Partnership Certificate)*, as applicable. Form 988ASF and Form 989ASF must be submitted together with Form 988SF or 989SF and the resolution, and may not be submitted separately.

Freddie Mac must receive a Seller’s certificate of incumbency and resolution no later than **May 31, 2009**. Sellers that do not submit the required documentation package by this date may experience a delay or interruption in funding.

As a result of the above change, effective **June 1, 2009** the authorized persons executing the following forms must be designated as one of the “Authorized Persons” on the Seller’s certificate of incumbency and resolution:

- [Form 483, Wire Transfer Instructions](#)
- [Form 987E, Wire Transfer Authorization for a Cash Warehouse Delivery](#) (Selling System use only)
- [Form 1132, Authorization for Automatic Transfer of Funds Through the Automated Clearing House \(ACH\)](#)

Therefore, to ensure Sellers do not experience a delay or interruption in funding, Sellers must re-execute and resubmit any of these forms that they utilize with the certificate of incumbency and resolution package. Because [Form 987, Wire Transfer Authorization for a Cash Warehouse Delivery](#) (MIDANET® use only), is deal-specific, we are not requiring that Sellers re-execute and resubmit this form; however, effective **June 1, 2009**, Sellers submitting this form must ensure that the signatory is one of the “Authorized Persons” designated on the certificate of incumbency and resolution.

#### *Selling System requirements*

Freddie Mac is also introducing new Form 900, *Selling System Authorized User Identification and Certification Form*. Effective immediately, Sellers using the **Selling System** will use this new form instead of the old Selling System user identification and roles forms (cash and guarantor) to designate individuals filling Selling System user roles.

Again, because of the new certificate of incumbency/resolution requirement, effective **June 1, 2009** the person designated as the Seller’s Selling System Setup Manager must be designated as one of the “Authorized Persons” on the Seller’s certificate of incumbency and resolution. Therefore, by **May 31, 2009**, Sellers using the Selling System must confirm that the person designated as the Selling System Setup Manager is identified as one of the “Authorized Persons” on their certificate of incumbency. If the current Setup Manager is not so identified, the Seller must complete and submit a new Form 900 that designates an authorized person as the Setup Manager with the certificate of incumbency documentation package.

#### *MIDANET requirements*

We are also updating our security wire transfer instruction requirements for Sellers that still sell Mortgages through **MIDANET**. Effective **June 1, 2009**:

- The contact person identified on the electronically transmitted security wire transfer instructions must be designated as one of the “Authorized Persons” on the Seller’s certificate of incumbency, and
- Changes to security wire transfer instructions must be submitted on a paper [Form 939, Security Settlement Information and Delivery Authorization](#), executed by a person authorized to provide Freddie Mac with wire transfer instructions on Seller’s certificate of incumbency.

#### *Additional changes*

In connection with these new requirements, we are making the following changes to the forms referenced above:

- Adding a requirement that the authorizing signature(s) be notarized, where necessary
- Updating completion instructions and adding the requirement that the name and specimen signature of the authorized person(s) appear on the certificate of incumbency

In addition to the changes related to mandatory payment of Seller fees with an ACH draft as noted below, we are also removing references to GoldWorks® fees from [Form 1132](#) and providing general updates on [Form 939](#).

In addition to providing new Form 900 and updating other Guide forms, we are updating Guide [Chapters A1, 4, 11, B15, C15, D15, 16, 17, 19](#) and [77](#), and [Directory 8](#), to reflect these new requirements.

## Remitting payments of Seller fees via Automated Clearing House draft

We are changing the way Sellers must remit payment of Seller fees to us; effective for all Seller fees billed on or after **June 1, 2009**, Sellers must remit payment of Seller fees (such as postsettlement delivery fees, Guarantor and MultiLender Swap fees such as buydown fees, Cash Contract payoff fees and WAC ARM Cash Contract Yield Maintenance fees) via an ACH draft.

We are implementing this change in order to make the payment process more efficient. The ACH payment method:

- Lowers the overall cost of paying fees
- Reduces the payment cycle time
- Eliminates completely the risk of lost checks
- Eliminates finance charges for late or lost checks

Many Freddie Mac Seller/Service providers have already taken advantage of the ACH payment option and have enjoyed the benefits and convenience of having payments automatically drafted by us each month.

If you are not already paying your Seller fees with an ACH draft, you must establish your ACH draft account by completing [Form 1132](#) and returning it to us no later than **May 31, 2009**. You must designate a Demand Deposit Account other than a Custodial Account as your ACH draft account. Because, as discussed above, effective **June 1, 2009**, the signature of the authorized person on the [Form 1132](#) must also appear on the certificate of incumbency and board resolution, *you must submit the [Form 1132](#) with your completed certificate of incumbency documentation package.*

Freddie Mac must receive all required documentation no later than **May 31, 2009** in order for us to draft your payment for invoices due and payable on **June 30, 2009**. However, we encourage you to submit the necessary documentation to establish your ACH draft account as soon as possible. Upon receipt of the documentation, we will notify you of the first month in which we will begin processing your payment via an ACH draft at the email address you provide on the [Form 1132](#). Customarily, if [Form 1132](#) is received on or before the 15<sup>th</sup> of the month, the first ACH draft will occur on the last Business Day of that same month.

When you receive your invoice, you should review it immediately and promptly contact us at (800) FREDDIE if you have any questions. We will submit an ACH draft from your designated account on the last Business Day of each month.

Guide [Section 17.2](#) is being updated to reflect this change. [Form 1132](#) is also being revised to reflect this change, in addition to the changes associated with the new certificate of incumbency requirements described above.

## SERVICING REQUIREMENTS

### IRS Form 1099-MISC

We are creating new Section 55.3.2 to remind Servicers not to prepare or file IRS Form 1099-MISC (“Miscellaneous Income”) using Freddie Mac’s name or Taxpayer Identification Number. Servicers should consult with their tax advisor to review its reporting obligations with regard to the filing of Form 1099-MISC.

### Updating Exhibit 4

We are updating [Exhibit 4, Uniform Instruments](#), to include the *Streamlined Modification Program Loan Workout Plan and Modification Agreement* and the *Streamlined Modification Program Loan Workout Plan Pending Rate Adjustment*, which were introduced as part of the Streamlined Modification Program in the [December 12, 2008](#) and [January 9, 2009 Bulletins](#), respectively.

As announced January 28, 2009, the *Streamlined Modification Program Loan Workout Plan and Modification Agreement – Single-Family – Fannie Mae/Freddie Mac Uniform Instrument, Form 3169, 12/08 (rev.1/09)*, has been updated.

These forms were previously posted on our Uniform Instrument web site available at <http://www.freddiemac.com/uniform>.

## REVISIONS TO THE SINGLE-FAMILY SELLER/SERVICER GUIDE

The revisions include:

- [Chapters A1, 4, 11, B15, C15, D15, 16, 17, 19, L33, 55](#) and [77](#)
- [Exhibit 4](#)
- [Forms 483, 900, 939, 987, 987E, 988SF, 988ASF, 989SF, 989ASF](#) and [1132](#)
- [Directory 8](#)

## 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  
Offerings Management