

Bulletin

NUMBER: 2011-11

TO: Freddie Mac Servicers

June 30, 2011

SUBJECT: SERVICING ALIGNMENT INITIATIVE AND HAWAII LEGISLATIVE CHANGES AFFECTING NON-JUDICIAL FORECLOSURES

With this *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin, we are announcing the Servicing Alignment Initiative, which is Freddie Mac’s implementation of new Servicing requirements to streamline and simplify Servicing processes, help Servicers contact delinquent Borrowers more effectively, and determine eligibility for and offer alternatives to foreclosure to distressed homeowners. Freddie Mac is adopting these changes as part of its implementation of the consistent mortgage servicing and delinquency management requirements that are described in the Federal Housing Finance Agency’s (FHFA) April 28, 2011 directive to Fannie Mae and Freddie Mac.

Additionally, we are providing specific requirements with regards to the processing of foreclosures in the State of Hawaii due to recent changes in Hawaii State law.

SERVICING ALIGNMENT INITIATIVE

Overview

The new Servicing requirements address solicitation of delinquent Borrowers and evaluation of all Borrowers for each of the alternatives to foreclosure that we offer. New Borrower communications, solicitation and evaluation requirements apply to all alternatives to foreclosure offered under the Guide, including the Home Affordable Modification Program (HAMP) and the Home Affordable Foreclosure Alternatives (HAFA) initiative. Servicers must implement processes and procedures that will assist them in their efforts to complete relief or workout options more expeditiously, and work to reduce the number of Mortgages that will ultimately result in foreclosure.

Additionally, as part of the Servicing Alignment Initiative, in a future Bulletin, Freddie Mac will announce a new modification solution, the Freddie Mac Standard Modification. The Freddie Mac Standard Modification will include a three-month trial period, and eligibility and underwriting requirements that target Borrowers who are ineligible for HAMP or Borrowers who defaulted on previous HAMP or non-HAMP modifications. The Freddie Mac Standard Modification will eventually replace the current modification solution prescribed in Guide Chapter B65, *Workout Options*. In the interim, Servicers must continue evaluating Borrowers who are ineligible for HAMP using the modification requirements specified in Chapter B65 and their other applicable Purchase Documents.

With this Bulletin, we are announcing specific changes to our Servicing requirements in the following areas:

Borrower contact

- New requirements related to establishing quality right party contact and performance standards related to the Servicer’s ability to establish quality right party contact

- Revised requirements related to collection efforts, including new call center and contact performance standards and requirements related to the breach letter and late payment notice
- Revised solicitation process, including the timing and scope of required Borrower solicitation and the specific solicitation documentation that must be used
- Revised Servicer evaluation standards, incentives and fees related to Borrower response rates and the successful transition of delinquent Borrowers into alternatives to foreclosure

Delinquency management

- Revised requirements related to the Borrower communication and evaluation process
- Revised requirements and restrictions related to the Servicer's initiation of foreclosure during the evaluation of the Borrower for an alternative to foreclosure
- Requirements for Servicers to review the Mortgage at specific times before and during the foreclosure process to ensure that there is no approved payment arrangement or pending alternative to foreclosure offer
- Requirements for Servicers to provide foreclosure certification to the attorney/trustee at least seven, but no more than 15 days, prior to the foreclosure sale date for all Mortgages that are scheduled for a foreclosure sale
- Revised property inspection requirements

Income, hardship and other documentation requirements

- Revised and standardized income and hardship documentation requirements applicable to both HAMP and non-HAMP modification solutions under the Guide
- Requirements for identifying the contents of a complete Borrower Response Package for a workout and certain relief options

State foreclosure time lines and related compensatory fees

- Revised State foreclosure time lines and permitting additional time for standard allowable delays beyond the control of the Servicer
- Revised State foreclosure time line compensatory fee assessment and billing to reinforce compliance with State foreclosure time lines from the Due Date of Last Paid Installment (DDLPI) through the foreclosure sale date

Escalated cases

- New requirements related to Servicer processes for reviewing and responding to Borrower complaints or disputes that rise to the level of an escalated case

EFFECTIVE DATES

All of the changes related to the Servicing Alignment Initiative are effective on **October 1, 2011**, unless otherwise noted.

BORROWER CONTACT REQUIREMENTS

Quality right party contact

We have updated Guide Section 64.4, *Establishing Borrower Contact*, to redefine what constitutes successful right party contact and introduce the concept of "quality right party contact." Quality right party contact occurs when a Servicer establishes a rapport with the Borrower, and expresses empathy and a desire to help identify and discuss the most appropriate options for Delinquency resolution with the Borrower, co-Borrower or trusted advisor, such as a housing counselor. A Servicer's objective in contacting a delinquent Borrower is to establish quality right party contact.

A Servicer must make every attempt to achieve quality right party contact by:

- Determining the reason for the Delinquency and whether the reason is temporary or permanent in nature
- Determining whether or not the Borrower has vacated or plans to vacate the property
- Determining the Borrower's current perception of his or her financial circumstances and ability to repay the Mortgage debt
- Setting payment expectations and educating the Borrower on the availability of alternatives to foreclosure as appropriate
- Obtaining a commitment from the Borrower to either resolve the Delinquency through traditional methods (paying the total delinquent amount) or engaging in an alternative to foreclosure solution

Freddie Mac will measure a Servicer's effectiveness in achieving quality right party contact. In its efforts to contact Borrowers, a Servicer must strive to achieve a quality right party contact benchmark of at least 60% for its population of Borrowers who are 120 days delinquent. Refer to Section 65.8, *Performance Standards*, for more information regarding this performance standard and related reporting requirements.

Collection efforts

We have updated Section 64.5, *Collection Efforts*, to provide the minimum collection efforts required to bring a delinquent Mortgage current. To the extent that a Servicer has not already set up Automated Clearing House (ACH) payment arrangements or established other arrangements to cure the Delinquency, the Servicer must initiate telephone contact with each delinquent Borrower between the third and 36th day of Delinquency.

Telephone calls must continue at least every third day until quality right party contact is achieved and the Servicer determines that the Borrower does not intend to pursue an alternative to foreclosure, the Delinquency is cured, complete Borrower Response Package is received to evaluate the Borrower for an alternative to foreclosure or the Borrower enters into a repayment or forbearance agreement with the Servicer.

The Servicer must tailor its calling campaigns appropriately based on the risk characteristics of the Mortgage, each Borrower's level of Delinquency, previous payment habits and the minimum contact requirements set forth in Section 64.5.

Attempts to contact a delinquent Borrower must continue throughout the foreclosure process for a judicial foreclosure sale, up to 60 days prior to a foreclosure sale date, and for a non-judicial foreclosure sale, up to 30 days prior to a foreclosure sale date, unless:

- The Servicer established quality right party contact with the Borrower and determined the Borrower does not intend to pursue an alternative to foreclosure; or
- The Servicer previously evaluated the Borrower for all alternatives to foreclosure and determined foreclosure is the appropriate course of action

Call center performance standards

We have updated Section 65.8 to require that Servicers maintaining call centers meet the following minimum call center and other contact performance standards:

- Average speed to answer a telephone call of 60 seconds or less
- 5% or less telephone call Abandon Rate
- 1% or less telephone call Blockage Rate
- Average time for a live operator to respond to e-mails of 48 hours or less after receipt (automated responses not included)
- Live operator chat response times of five minutes or less between chats

Servicers that maintain a call center must maintain data related to the performance standards described above, and must make the data available to Freddie Mac upon request.

Breach letter requirements and late payment notice

We currently require Servicers to send a breach letter (also referred to as the “notice of acceleration” or “demand letter”) to a Borrower no later than the 60th day of Delinquency if the Mortgage does not have satisfactory payment arrangements. With this Bulletin, we are revising the Guide to require that if State law requires the breach letter to be sent prior to the 60th day of Delinquency in order to be able to refer the Mortgage to foreclosure by the 120th day of Delinquency, the Servicer must send the breach letter by the earlier date.

If the Servicer determines the property is vacant or abandoned pursuant to Section 65.35, *What is an Abandoned Property?*, the Servicer must:

- Issue a breach letter within 10 days of the determination, provided the Mortgage is more than 30 days delinquent and, in any case, no later than the 60th day of Delinquency; and
- Refer the Mortgage to foreclosure upon expiration of the breach letter, unless the Servicer establishes quality right party contact with the Borrower to resolve the Delinquency. Even if quality right party contact is established, the Mortgage must be referred to foreclosure no later than the 120th day of Delinquency unless one of the exceptions to postpone foreclosure referral applies as described in Section 66.9.1, *When to Initiate Foreclosure on a First-Lien or a Second Mortgage/Home Improvement Loan (HIL)*.

We have revised the time frame during which the late notices/payment reminders must be sent to the Borrower from between the 11th and 13th day of Delinquency to no later than the 17th day of Delinquency.

Servicers must review the requirements of Section 64.5 for complete Borrower contact requirements and minimum collection efforts.

Solicitation

We have revised our solicitation requirements to require Servicers to solicit every Borrower who is 31 days or more delinquent for an alternative to foreclosure. Servicers must send a solicitation letter to Borrowers between the **31st and 35th day of Delinquency**, and again between the **61st and 65th day of Delinquency**, if the Servicer has not achieved quality right party contact and determined that the Borrower does not intend to pursue an alternative to foreclosure or the Borrower did not respond to the initial solicitation. The Servicer must provide in its solicitation letter the specific date by which the Borrower must respond with required information and documentation (“Borrower Response Package”), which must be 30 days from the date the solicitation letter was sent. In the event the 30th day falls on a non-Business Day, the Servicer may specify the following Business Day as the date by which the Borrower must respond.

Additionally, once a Mortgage has been referred to foreclosure, Servicers must instruct the foreclosure attorney/trustee to send a post-referral to foreclosure solicitation letter to the Borrower. This solicitation letter must be sent within **five Business Days following a foreclosure referral but no later than the 125th day of Delinquency**. The attorney/trustee may, but is not required to, include the contents of the Borrower Solicitation Package as described below under “Solicitation documents” with its post-referral to foreclosure solicitation letter to the Borrower.

Section 64.6, *Evaluation Hierarchy, Borrower Solicitation and Communication*, has been revised to include the hierarchy in which Servicers must evaluate a Borrower for all alternatives to foreclosure and now sets forth all related requirements for solicitation including the required contents of the solicitation letters.

Solicitation documents

To simplify the solicitation process, we are introducing new financial information, hardship and Borrower certification form, Guide Form 710, *Uniform Borrower Assistance Form*. A completed Form 710, or a Servicer customized equivalent, must be used for certain alternatives to foreclosure, including HAMP and HAFA, where such form is required. We are also providing sample solicitation templates that a Servicer may use to solicit Borrowers for all alternatives to foreclosure. Use of the new forms and solicitation requirements become effective for all new evaluations for an alternative to foreclosure conducted on or after **October 1, 2011**. Servicers should implement the new forms and solicitation requirements prior to October 1, 2011 in order to ensure that evaluations conducted on or after October 1, 2011 are in accordance with this requirement.

The new forms and solicitation templates are also available for download at:

http://www.freddiemac.com/singlefamily/service/solicitation_docs.html.

- **Uniform Borrower Assistance Form:** A completed Form 710 will provide the Servicer with a Borrower's financial information, including the reasons for the Borrower's financial hardship. The form also includes a request for income and hardship documentation that may be necessary to complete an evaluation of the Borrower for an alternative to foreclosure. The new Form 710 replaces Form 1126, *Borrower Financial Information*, Form 1114, *Making Home Affordable Request for Modification and Affidavit* ("RMA"), and Form 1115, *Making Home Affordable Hardship Affidavit*. Servicers may send the Borrower a customized equivalent of Form 710 provided that it requests the same financial information, hardship affidavit and attestations from the Borrower. However, if a Servicer receives Form 710 rather than its customized equivalent, the Servicer must accept Form 710. Throughout this Bulletin, any references to Form 710 are used to indicate both Form 710 and a Servicer's customized equivalent of Form 710.
- **HAMP Government Monitoring Data Form:** When soliciting Borrowers for an alternative to foreclosure in accordance with Section 64.6, Servicers must include new Form 710A, *HAMP Government Monitoring Data Form*, in the Borrower Solicitation Package for only those Borrowers who the Servicer determines are HAMP-eligible (e.g., loan originated prior to January 1, 2009, owner-occupied, etc.). The Borrower is not required to provide data requested on Form 710A. Servicers must accept and process Form 710 even if the Borrower did not furnish or fully complete Form 710A. Refer to Sections C65.2, *HAMP Documentation*, and C65.13(b) for additional requirements related to Government Monitoring Data. Refer to Section C65.4, *Eligibility*, for HAMP Borrower eligibility requirements.
- **Solicitation templates – Pre-referral to foreclosure:** New solicitation templates, Guide Exhibit 1131, *Borrower Solicitation Letter – 31 Days Delinquent*, and Exhibit 1161, *Borrower Solicitation Letter – 61 Days Delinquent*, represent the information that must be sent to Borrowers who are 31 days or more delinquent and 61 days or more delinquent to inform the Borrowers of all alternatives to foreclosure and the required documentation that must be submitted to a Servicer in order to be evaluated for an alternative to foreclosure. The new solicitation templates replace existing HAMP solicitation documents (Form 1120, *HAMP Proactive Solicitation Letter*, and Form 1121, *Documentation Request Letter*). Use of the solicitation templates is optional; however, they illustrate the level of specificity that is deemed to be in compliance with the requirements of Section 64.6.

The contents of Exhibits 1131 and 1161 include:

- A cover letter that describes the contents of the Borrower Solicitation Package
- A homeowner checklist that explains the steps a Borrower must follow to request consideration for an alternative to foreclosure and provides guidance on completing the documents that need to be returned to the Servicer

- ❑ Information on avoiding foreclosure to help Borrowers understand the options they may have to either stay in or leave their home, and avoid foreclosure
- ❑ Frequently asked questions regarding the Borrower Solicitation Package and evaluation process
- ❑ Foreclosure scam notice that includes tips to avoid and how to report scams

The Borrower Solicitation Package consists of the following documents:

- ❑ Exhibit 1131, *Borrower Solicitation Letter – 31 Days Delinquent* – Sent to Borrowers between the 31st and 35th day of Delinquency; or
- ❑ Exhibit 1161, *Borrower Solicitation Letter – 61 Days Delinquent* – Sent to Borrowers between the 61st and 65th day of Delinquency;

And

- ❑ Uniform Borrower Assistance Form (Form 710 (6/11)); and
- ❑ Internal Revenue Service (IRS) Form 4506T-EZ, *Short Form Request for Individual Tax Return Transcript*. Servicers may obtain IRS Form 4506T-EZ directly from the IRS web site at <http://www.irs.gov>

- **Solicitation template – Post-referral to foreclosure:** New Exhibit 94, *Post-Referral to Foreclosure Solicitation Letter*, represents the model post-referral to foreclosure solicitation letter that must be sent to Borrowers by the foreclosure attorney/trustee within five Business Days of a foreclosure referral but no later than the 125th day of Delinquency. The attorney/trustee may include Form 710, IRS Form 4506T-EZ and the following contents of Exhibit 1131, provided it is amended, as necessary, to ensure accuracy:

- ❑ The homeowner checklist
- ❑ Information on avoiding foreclosure
- ❑ Frequently asked questions
- ❑ Foreclosure scam notice that includes tips to avoid and how to report scams

With the exception of IRS Form 4506T-EZ and IRS Form 4506-T, *Request for Transcript of Tax Return*, electronic transmission and completion of the Borrower Response Package is permitted in accordance with the requirements of Section 50.3.1, *Acknowledgement and Consent to Electronic Transactions*, and Section 64.6(e). However, if permitted by and subject to IRS requirements, electronic submission of the IRS Form 4506T-EZ or IRS Form 4506-T is permitted as if it is a loss mitigation document in accordance with the requirements of Section 50.3.1 and Section 64.6(e). (IRS Form 4506T-EZ or IRS Form 4506-T may only be considered a loss mitigation document for purposes of Section 50.3.1 and Section 64.6(e) if either of those forms is received from the Borrower in a manner that permits the Servicer to submit it to the IRS in strict compliance with the IRS instructions and any other applicable IRS requirements.)

Use of the Freddie Mac and Making Home Affordable logos

Servicers must not use the Freddie Mac logo or the Making Home Affordable logo on the new solicitation documents described above. Additionally, **effective October 1, 2011**, Servicers must no longer add the Freddie Mac logo or the Making Home Affordable logo to envelopes, letters or packages, including the following documents, unless such logos are already included in the document as provided by Freddie Mac:

- HAMP Counseling Referral Letter (Form 1119)
- HAMP Agreement Cover Letter (Form 1118)
- HAFA Short Sale Agreement (Form 1135)
- HAFA Request for Approval of Short Sale (Form 1136)
- HAFA Approval of Short Sale (Form 1137)
- HAFA Disapproval of Short Sale (Form 1138)
- HAFA Deed-in-Lieu Agreement (Form 1139)

Borrower Response Package incentives and compensatory fees

Freddie Mac will measure a Servicer's efforts to obtain complete Borrower Response Packages for Borrowers who are reported as 60 days delinquent, as detailed in Section 64.6. If the Servicer is conducting the HAMP imminent default evaluation pursuant to Section C65.5.2, *Determining Imminent Default*, a complete Borrower Response Package includes any additional hardship documentation that may be required as part of that evaluation.

Incentives and compensatory fees

The following describes the details of the measurement for the complete Borrower Response Package and Delinquency improvement performance standard.

| Topic | Measurement |
|--------------------------------|---|
| Delinquent Borrower Population | The number of Borrowers who become 60 days delinquent (“Delinquent Borrower Population”) at the beginning of a month (“Start Date”) <i>Excludes Borrowers in bankruptcy (including a bankruptcy filed after the Start Date)</i> |
| Collection period | Six months from Start Date |
| Borrower Response Population | The number of Borrowers in the Delinquent Borrower Population who have delivered complete Borrower Response Packages by, or who are current or less than 60 days delinquent at, the end of the collection period (“Borrower Response Population”) <i>Excludes delinquent Borrowers in bankruptcy (including a bankruptcy filed after the Start Date)</i> |
| Performance Measurement | Borrower Response Population divided by the Delinquent Borrower Population (“Performance Measurement”) |
| Minimum benchmark | The Performance Measurement is 50% |
| Incentive benchmark | The Performance Measurement is greater than or equal to 60% |

Servicers with a Performance Measurement that meets the incentive benchmark will receive an incentive in the amount of \$500 for each complete Borrower Response Package received from a Borrower in the Delinquent Borrower Population prior to or during the six-month collection period.

Alternatively, Servicers that fail to meet the 50% minimum benchmark will be assessed a \$500 fee for the number of additional complete Borrower Response Packages that the Servicer would have needed to collect from Borrowers in the Delinquent Borrower Population in order to meet the minimum benchmark.

A compensatory fee will not be assessed nor will an incentive be paid if the Servicer’s Performance Measurement achieves the minimum benchmark but does not achieve the incentive benchmark.

Reporting

A Servicer must notify Freddie Mac via an Electronic Default Reporting (EDR) transmission within the first three Business Days of the month following the month that it received a complete Borrower Response Package from a Borrower.

Effective October 1, 2011, Servicers must report default action code H5 to report receipt of a complete Borrower Response Package for each Mortgage that a complete Borrower Response Package was received in the month following the month that the Borrower Response Package was received. Default action code H5 will no longer be used to report a positive solicitation response for HAMP-eligible Mortgages, and Servicers must no longer use the H5 code for this purpose.

Incentive payments or compensatory fees assessed for this Performance Measurement will be reflected in a Servicer's monthly Servicer Non-Performing Loans Invoice beginning in April 2012.

Section 65.8 has been updated to reflect this new performance standard.

Alternative to foreclosure pull-through measurement

Servicers will be measured on their ability to successfully transition newly 60-day delinquent Borrowers into an alternative to foreclosure in a given quarter. At a minimum, Servicers must achieve at least a 60% alternative to foreclosure pull-through rate, measured as follows:

Alternatives to foreclosure in the current quarter divided by the prior quarter's new 60-day delinquent Borrower inflows

Reinstatements, forbearance plans, repayment plans, Trial Period Plans, payoffs, modifications, short payoffs and deeds-in-lieu of foreclosure are included in this performance standard. Loans in bankruptcy are excluded from this measurement.

Section 65.8 has been updated to reflect this new performance standard.

DELINQUENCY MANAGEMENT

Borrower communication and evaluation process

The new solicitation process requires that the Borrower submit to the Servicer all required documentation needed to conduct an evaluation of the Borrower for all alternatives to foreclosure offered in the Guide. A Servicer must review the Borrower for all alternatives to foreclosure, including HAMP, in accordance with the evaluation hierarchy set forth in Section 64.6(a). If the Servicer determines the Borrower is not eligible for an alternative to foreclosure, the Servicer must send the Borrower the appropriate Borrower Evaluation Notice (i.e., Non-Approval, Capacity to Pay Your Mortgage Letter or Non-Approval, Proceed to, or Continue with, Foreclosure) in accordance with the requirements of Section 64.6(d).

Servicers are currently required to provide specific communications during specific time frames to HAMP-eligible Borrowers relaying certain actions during the evaluation process, such as a non-approval notice or an incomplete information notice. We are revising our requirements to state that Servicers must provide the following notices during specified time frames to all Borrowers being evaluated for an alternative to foreclosure, whether or not the Borrowers are HAMP-eligible. Section 64.6(d) outlines the required contents for each notice described below:

■ **Acknowledgement of a Borrower Response Package**

Servicers must acknowledge to the Borrower receipt of the Borrower Response Package within **three Business Days** of receipt from the Borrower, regardless of whether the package is complete or incomplete. This acknowledgement of receipt may be completed verbally. Section 64.6(d) sets forth the requirements for the information that must be conveyed to the Borrower when acknowledging receipt of the Borrower Response Package.

■ **Incomplete information notice**

The Servicer must send an incomplete information notice to the Borrower no later than **five Business Days** from receipt of an incomplete package. The Servicer may send the incomplete information notice to the Borrower together with the acknowledgement of receipt of the Borrower Response Package, if feasible.

■ Borrower Evaluation Notice

Within **five days of an evaluation decision but no later than 30 days** following receipt of the complete Borrower Response Package, the Servicer must provide the appropriate Borrower Evaluation Notice communicating its decision to the Borrower. With respect to those evaluation notices which are offers for alternatives to foreclosure, Servicers must include the date by which the Borrower must accept or indicate intent to accept such offers, which must be **14 days from the date of the applicable evaluation notice**.

The HAMP Trial Period Plan Borrower Evaluation Notice will replace HAMP Form 1117, *HAMP Trial Period Plan Notice*, and also the Borrower Notice and related requirements in Chapter C65, *Home Affordable Modification Program*, are being eliminated. Unless required by applicable federal, State or local law, Servicers are not required to include in the HAMP Trial Period Plan Borrower Evaluation Notice a primary reason or reasons for not offering the Borrower a specific alternative to foreclosure.

Borrowers who are less than 60 days delinquent may be required to provide additional hardship documentation in order for the Servicer to complete the imminent default evaluation as required under HAMP. In such cases, a complete Borrower Response Package is defined to include the imminent default hardship documentation for purposes of meeting the evaluation and Servicer response time frames set forth in Section 64.6. The Servicer's obligation to respond to such Borrowers within five days of an evaluation decision, but no later than 30 days from the receipt of a complete Borrower Response Package, applies once the Servicer receives the additional imminent default hardship documentation necessary to complete the evaluation. However, Servicers are reminded that for those Borrowers who are not required to provide additional hardship documentation, the Servicer's evaluation and response time frames set forth in Section 64.6 remain unchanged.

Most of the possible outcomes of a Servicer's decision and response are described in Section 64.6(c).

Model letters describing each Borrower Evaluation Notice are included in new Exhibit 93, *Evaluation Model Clauses*. The Borrower Evaluation Notices are also available for download at: http://www.freddiemac.com/singlefamily/service/solicitation_docs.html.

Use of the model letters is optional; however, they illustrate the level of specificity that is deemed to be in compliance with the requirements of Section 64.6. The possible outcomes of a Servicer's decision and response for each Borrower Evaluation Notice are described in Section 64.6(c). The model letters may be altered at the Servicer's discretion as it deems necessary to meet the requirements of Chapters A65, *Reinstatements and Relief Options*, B65, C65, and D65, *Home Affordable Foreclosure Alternatives*, and to comply with disclosure and other requirements under applicable federal, State or local law.

Section 64.6 sets forth all requirements related to the Borrower communication and evaluation process including the required contents of the notice acknowledging receipt of a complete Borrower Response Package and the incomplete information notice. Servicers must also refer to Chapters A65, B65, C65, and D65, for additional information on sending the Borrower Evaluation Notice specific to each reinstatement, relief or workout option.

Servicer evaluation obligations during the foreclosure process

We have revised requirements and placed restrictions on the initiation of foreclosure in certain circumstances.

A Mortgage must not be referred to foreclosure under the following conditions:

- A complete Borrower Response Package is received and the Servicer is evaluating the package. (Note: If a complete Borrower Response Package is submitted after the Mortgage is referred to foreclosure, the foreclosure process may continue while an evaluation is being performed for an alternative to foreclosure.)
- The Servicer has extended an offer for an alternative to foreclosure and the 14-day period for the Borrower's response has not expired

- The Borrower is approved for mortgage assistance under the Hardest Hit Fund initiative as set forth in Bulletin 2010-25
- The Borrower has accepted an offer for an alternative to foreclosure and is performing in accordance with its terms

Reduced time period to provide a Borrower Evaluation Notice

Under certain circumstances, Servicers will be required to evaluate the Borrower for an alternative to foreclosure and provide the Borrower with a Borrower Evaluation Notice in less than the 30-day time period described in the “Borrower communication and evaluation process” section above. Specifically, if the Servicer receives a complete Borrower Response Package close to the foreclosure sale date (i.e., less than 37 days prior to the sale date), the Servicer will not have 30 days to conduct an evaluation and communicate a decision prior to the deadline for providing a foreclosure certification to the attorney/trustee. We have updated Section 64.6 to provide specific requirements related to accelerated time lines for these situations.

Servicers should review the following Sections for complete requirements related to a Servicer’s evaluation obligations during the foreclosure process:

- 64.6, *Evaluation Hierarchy, Borrower Solicitation and Communication*
- 66.9.1, *When to Initiate Foreclosure on a First-Lien or a Second Mortgage/Home Improvement Loan (HIL)*
- 66.32.1, *Foreclosure Sale Postponements*
- 66.41, *Complete Borrower Response Packages Received After the Foreclosure Sale Has Been Scheduled*

Pre-foreclosure referral review

Following expiration of the breach letter and the second Borrower Solicitation Package Borrower response time frame without affirmative Borrower response, but in no event less than seven days prior to referral to foreclosure, the Servicer must review the Mortgage account to verify that:

- It made every attempt to achieve quality right party contact in accordance with Section 64.4
- There is no approved payment arrangement
- There is no pending alternative to foreclosure offer, or if an offer has been made, that the Borrower response period has expired

In the event that the review results in discovery of an approved payment arrangement or pending alternative to foreclosure, the Servicer must not refer the Mortgage to foreclosure.

This requirement is included in new Section 66.9, *Pre-referral Account Review*.

Pre-foreclosure sale reviews

At least 30 days prior to the scheduled foreclosure/trustee sale, the Servicer must review the Mortgage history to verify compliance with all required Borrower outreach and solicitation requirements specified in Chapter 64, *Delinquencies*, and that there is not an approved payment arrangement or a pending alternative to foreclosure offer for which the Borrower response period has not expired.

This requirement is included in Section 66.41.1, *Reviews and Certifications Prior to Foreclosure Sale*.

Certification to foreclosure attorney/trustee

At least seven, but no more than 15 days prior to a foreclosure sale, the Servicer must once again review the Mortgage account. If, based on the account review, the Servicer determines that all Borrower outreach and solicitation requirements have been achieved and that there is no approved payment arrangement or pending alternative to foreclosure offer, or if an offer has been made, that the Borrower response period has expired, the Servicer must send written certification to the attorney/trustee **at least seven, but no more than 15 days prior to the foreclosure sale date** indicating the attorney/trustee must continue with

the foreclosure sale. However, the Servicer must not provide such certification if it exercised its discretion to postpone the foreclosure sale to facilitate resolution of an escalated case and such escalated case is not yet resolved. (Refer to Section 51.5.1, *Servicer Response to Complaints – Escalated Cases.*)

The foreclosure certification requirements are included in Section 66.41.1.

Property inspections

We have revised our property inspection requirements to indicate that the initial property inspection must be ordered by the 45th day of Delinquency and completed by the 60th day of Delinquency, if the Servicer has not received a payment in the last 30 days or quality right party contact has not been achieved. The Servicer must continue to obtain a property inspection every 30 days if the Mortgage remains 45 days or more delinquent until:

- The Servicer achieves quality right party contact and the Borrower and Servicer agree to a prospective resolution to the Delinquency. A prospective resolution to the Delinquency can be a verbal commitment from the Borrower to resolve the Delinquency via a reinstatement, relief or workout option; or
- The Servicer receives the Property Condition Certificate (PCC) from Freddie Mac once the property reverts to Real Estate Owned (REO) after the foreclosure sale

If the property is found to be vacant or tenant-occupied, property inspections must continue as long as the Mortgage remains 45 or more days delinquent regardless of whether the Servicer achieves quality right party contact or a prospective resolution to the Delinquency.

An inspection is not required for Mortgages in bankruptcy performing in accordance with the terms of a bankruptcy plan.

Section 65.33, *When to Order a Property Inspection*, has been updated to reflect these changes.

INCOME, HARDSHIP AND OTHER DOCUMENTATION REQUIREMENTS

Income and hardship documentation

We have revised our income documentation requirements for all modifications offered under the Guide. Servicers must now obtain the same income documentation requirements when evaluating Borrowers for a HAMP modification under Chapter C65 or for a non-HAMP modification under Chapter B65. To streamline the evaluation process for an alternative to foreclosure, we are also implementing the revised income documentation requirements for all other workout types under the Guide and certain relief options. Refer to Section 65.18, *Borrower Income Documentation*, for all requirements related to the new income documentation. In addition, refer to Chapters A65, B65, C65 and D65 for income documentation requirements for the various relief and workout options.

We have also revised our requirements for establishing a Borrower's hardship for all Chapter B65 and C65 modifications under the Guide (including HAMP), as well as other workout options and certain relief options. The new hardship requirements are replacing our existing involuntary inability to pay requirements. To be eligible for a modification, the hardship must currently be causing or be expected to cause a long-term or permanent decrease in the Borrower's income or increase in the Borrower's expenses. Servicers should refer to Section 65.17, *Verifying a Borrower's Hardship*, for a description of the eligible hardships and the associated documentation requirements that the Borrower must provide to document the hardship.

We are also reminding Servicers that for Borrowers who must be determined to be in imminent default prior to being evaluated for HAMP, the Imminent Default Hardship documentation requirements as set forth in Section C65.5.2 have not changed.

Borrower Response Package

Servicers must obtain a complete Borrower Response Package from the Borrower to perform an evaluation of the Borrower for certain workout and relief options. A complete Borrower Response Package includes the following:

- Completed and signed Uniform Borrower Assistance Form
- Income documentation in accordance with Section 65.18
- Hardship documentation in accordance with Section 65.17
- Completed and signed IRS Form 4506T-EZ. Note: Servicers must obtain IRS Form 4506-T if the Borrower (i) is self-employed, and/or (ii) files federal income tax returns based on a fiscal calendar year (i.e., a tax year beginning in one calendar year and ending in the following year)
- If applicable, Imminent Default Hardship documentation in accordance with Section C65.5.2 for Borrowers who are less than 60 days delinquent, only when such documentation is necessary to complete the imminent default evaluation as required under HAMP
- Until we introduce our new Standard Modification option, for evaluations for a modification conducted under Chapter B65, Servicers will be required to obtain from Borrowers the following additional information pertaining to household and living expenses that is not included on the new Form 710 for Chapter B65 modifications.
 - Child care
 - Health insurance premiums (if not withheld from pay)
 - Medical (co-pays and monthly prescriptions)
 - Food
 - Auto expenses/auto insurance
 - Water/sewer/utilities/telephone
 - Life insurance premiums (not withheld from pay)

The new documentation requirements become effective **for all new evaluations for an alternative to foreclosure conducted on or after October 1, 2011**. Servicers may, and are strongly encouraged to implement these new requirements into their processes as soon possible.

Sections 64.6, 65.17 and 65.18 and Chapters A65, B65, C65 and D65 have been updated to reflect these changes.

STATE FORECLOSURE TIME LINES AND COMPENSATORY FEES

We have revised our State foreclosure time lines in Exhibit 83, *Freddie Mac State Foreclosure Time Lines*. The new State foreclosure time lines are in effect for all Mortgages referred to foreclosure on or after **October 1, 2011**.

Allowable delays in completing a foreclosure

The State foreclosure time line will be extended for a Mortgage under the following circumstances:

- A Borrower files for bankruptcy protection
- Delays due to probate, military indulgence under the Servicemembers Civil Relief Act of 2003 or similar State law providing relief to active duty military service members, and contested foreclosures
- Delays incurred during the period the Borrower is evaluated for HAMP eligibility but is determined to be ineligible for HAMP
- Delays where the Borrower entered a HAMP Trial Period Plan but failed to comply with the terms of the plan

Refer to Exhibit 83A, *Determining State Foreclosure Time Line Compensatory Fees*, for the manner in which Freddie Mac calculates the additional time granted for each of the allowable delays.

Compensatory fees

If the Servicer exceeds the State foreclosure time line (DDLPI to foreclosure sale) on a Mortgage plus any allowable delays, compensatory fees will be assessed in addition to any actual damages caused by the Servicer's failure to comply with the requirements of the Guide.

For Mortgages referred to foreclosure on or after **October 1, 2011**, there is a new calculation for State foreclosure time line compensatory fees. With the new calculation, foreclosure sales completed by Servicers that are less than the State foreclosure time line standard will no longer offset foreclosure sales exceeding the State foreclosure time line (i.e., netting is no longer part of the compensatory fee calculation). In addition, foreclosure sales conducted by designated counsel are now subject to the compensatory fee calculation.

Compensatory fees will not be assessed if a Servicer's aggregate amount of monthly compensatory fees is \$1,000 or less. Details of the new calculation for State foreclosure time line compensatory fees are outlined in Exhibit 83A.

For Mortgages referred to foreclosure on or after **October 1, 2011**, State foreclosure time line compensatory fees will be **billed monthly** on the Servicer Non-Performing Loans Invoice, rather than annually. The first monthly bill, to be distributed in early January of 2012, will capture State foreclosure time line compensatory fees related to Mortgages referred to foreclosure on or after October 1, 2011, resulting in foreclosure sales in October of 2011.

Subsequent Servicer Non-Performing Loans Invoices will only include compensatory fees for one month and will be for foreclosure sales conducted two months prior, provided the Mortgage was referred to foreclosure on or after October 1, 2011.

Servicers may submit data to correct past reporting discrepancies; however, no adjustment to the assessed compensatory fee(s) will be made for corrections related to inaccurate or incomplete reporting

Freddie Mac's existing compensatory fee calculation and annual assessment will continue to apply to all Mortgages referred to foreclosure prior to October 1, 2011.

Sections 66.30, *State Foreclosure Time Lines*, 66.32, *Allowable Delays in Completing a Foreclosure*, and 66.33, *State Foreclosure Time Line Performance Assessment*, and Exhibits 83 and 83A have been updated to reflect these changes.

ESCALATED CASES

We have introduced new requirements directing Servicers to have processes and procedures in place for review and response to Borrower disputes and complaints about the Servicer and/or its third-party providers that rise to the level of an escalated case. Section 51.5.1 includes new requirements related to:

- When and how Servicers must respond to and resolve Borrower complaints or disputes
- Handling Borrower complaints or disputes on Mortgages that are referred to foreclosure
- Reporting requirements to Freddie Mac

Servicers must review Guide Section 51.5.1 for all requirements specific to the Servicer's management of escalated cases.

HAWAII LEGISLATIVE CHANGES AFFECTING NON-JUDICIAL FORECLOSURES

Effective immediately, due to recent changes in Hawaii State law affecting non-judicial foreclosures, Servicers must:

- Commence all new Freddie Mac foreclosures in Hawaii as judicial foreclosures
- Convert all non-judicial foreclosures to judicial foreclosures in Hawaii that have not proceeded to foreclosure sale

In certain circumstances, Freddie Mac may be required to re-foreclose certain recent REO acquisitions that resulted from non-judicial foreclosures. Upon being notified, Servicers must rescind the non-judicial foreclosure and recommence the action as a judicial foreclosure.

In addition, due to the recent change in the foreclosure process, we are currently reviewing the maximum allowable attorney fee for Hawaii and will communicate any revision to such amount, if applicable, in a future Bulletin.

TRAINING

A suite of training materials and reference documents will be available to support the Servicing Alignment Initiative topics announced in this Bulletin. Please register for our ***Bulletin Overview*** webinar for a comprehensive outline of this announcement. Additional Servicing Alignment Initiative training topics are also available for registration. To register for training, please visit **The Learning Center** at www.freddiemac.com. You can also review all of our current training offerings by accessing the **Servicing Alignment Initiative** section of **The Learning Center**.

REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 50, 51, 53, 64, 65, A65, B65, C65, D65, 66, 67, 78 and 83
- Forms 710 and 710A
- Exhibits 57A, 82, 83, 83A, 93, 94, 1131 and 1161
- Glossary
- Directory 5

CONCLUSION

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call (800) FREDDIE and select Servicing.

Sincerely,



Tracy Hagen Mooney
Senior Vice President
Single-Family Servicing and REO