

Bulletin

NUMBER: 2011-23

TO: Freddie Mac Servicers

November 18, 2011

SUBJECTS

With this *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin, we are making the following updates to our **Servicing** requirements:

- Eliminating the requirement that a Borrower must have had the Mortgaged Premises listed for sale in order to be eligible for a deed-in-lieu of foreclosure (DIL) pursuant to Guide Chapter B65, *Workout Options*, for Mortgages that are 120 days or more delinquent
- Adding new Guide Form 902, *Freddie Mac Service Loans Application Authorized User Roles Form – For Use by Servicers Only*, and introducing new Form 902SA, *Freddie Mac Service Loans Application Authorized User Roles Form – For Use by Servicing Agents Only*, with related addenda
- Clarifying Servicer and Servicing Agent obligations and revising our Servicing Agent requirements to, among other things:
 - Provide that a Servicer may not engage more than one Servicing Agent for Freddie Mac Mortgages being serviced under a particular Seller/Servicer number at any one time
 - Require a Servicer to notify Freddie Mac within one Business Day of expiration or termination of its contract with an approved Servicing Agent by either party
- Providing additional guidance with respect to eligible short payoff transaction requirements and our short sale affidavit requirements
- Removing the requirement to include the property address as part of reporting an escalated case
- Providing further guidance on the interest rate and principal and interest payment amount that Servicers must use to calculate the target payment and the Current Monthly Housing Expense-to-income ratio for a Home Affordable Modification Program (HAMP) Trial Period Plan when the Mortgage is subject to the Servicemember’s Civil Relief Act (SCRA) interest rate cap at the time of evaluation
- Providing additional guidance for sending a late notice/reminder to the Borrower
- Providing additional guidance on required telephone contact with delinquent Borrowers
- Updating the Guide to reflect that the Freddie Mac Exclusionary List (“Exclusionary List”) is now available to Servicers through the Freddie Mac Service Loans application (“Service Loans application”)

We are also reminding Seller/Servicers of their obligation to maintain mortgage insurance coverage for Freddie Mac’s benefit, an obligation that includes responding in required time frames to an MI request for information and documentation prior to MI issuance of a coverage rescission or claim denial.

EFFECTIVE DATE

All of the changes announced in this Bulletin are effective immediately, unless otherwise noted.

DEED-IN-LIEU OF FORECLOSURE PROPERTY LISTING REQUIREMENTS

We are eliminating the requirement that a Borrower must have had the Mortgaged Premises listed for sale in order to be eligible for a DIL pursuant to Chapter B65 for Mortgages that are 120 days or more delinquent. The Borrower's level of Delinquency is determined at the time the Servicer evaluates the Borrower for an alternative to foreclosure based on a complete Borrower Response Package.

Previously, when considering a Borrower for a DIL, we required the Servicer to ensure that the Borrower had listed the Mortgaged Premises for sale with a licensed real estate broker for at least 90 days, at no more than 110% of market value, with all attempts to sell the Mortgaged Premises being unsuccessful. Eliminating the requirement of listing the Mortgaged Premises for sale prior to consideration for a DIL will facilitate a quicker execution of the DIL when a Borrower who is in a late stage of Delinquency is offered a DIL.

This change does not impact the requirements for DILs pursuant to Freddie Mac's Home Affordable Foreclosure Alternatives (HAFA) initiative under Chapter D65, *Home Affordable Foreclosure Alternatives*, nor does it impact Borrowers who are less than 120 days delinquent at the time the Servicer evaluates the Borrower for an alternative to foreclosure based on a complete Borrower Response Package.

Guide Sections B65.43, *When to Consider a Deed-in-Lieu of Foreclosure*, B65.44, *Eligibility Requirements*, and B65.45, *Submitting a Recommendation to Freddie Mac*, have been updated to reflect this change.

SERVICE LOANS APPLICATION USER ROLES FORMS

Now that Servicer migration to the Service Loans application has been completed, we are updating the Guide to add new Form 902, with a related addendum, for Servicers to designate individuals authorized to use the Service Loans application ("Authorized Users"). The Form 902 is the form that Servicers completed and submitted to identify and designate their Authorized Users when migrating to the Service Loans application. As a reminder, it must be executed by a Servicer's Vice President or higher ranking officer.

We are also introducing new Form 902SA, with a related addendum, to be used only by Servicing Agents that have been engaged to service Freddie Mac Mortgages on the Servicer's behalf. When engaging a Servicing Agent, the Servicer must execute and submit Form 479A, *Single-Family Servicing Agent Certification*, to obtain Freddie Mac approval to engage the Servicing Agent and which authorizes the Servicing Agent to access the Service Loans application to service Freddie Mac Mortgages on the Servicer's behalf. Effective immediately, upon receiving Freddie Mac approval to act as a Servicing Agent, the Servicing Agent must complete and submit the Form 902SA to identify the Servicing Agent's authorized employees ("Authorized Users") and their respective delegated user roles for Servicing designated Freddie Mac Mortgages. The Form 902SA must also be signed by a Vice President or higher ranking officer.

Servicers that need additional space to identify Authorized Users on the Form 902 must use new Form 902A, *Addendum to Freddie Mac Service Loans Application Authorized User Roles Form – For Use by Servicers Only*. Servicing Agents must use Form 902ASA, *Addendum to Freddie Mac Service Loans Application Authorized User Roles Form – For Use by Servicing Agents Only*, to request access for additional Authorized Users. Form 902A and Form 902ASA must be attached to and submitted together with Form 902 and Form 902SA, respectively, and may not be submitted separately. Each Form 902A or Form 902SA submitted must contain an original signature.

Sections A50.7, *Security and Servicer Responsibilities*, and 51.4, *Servicer and Servicing Agents*, have been updated to reflect addition of the Forms 902, 902A, 902SA and 902ASA to the Guide and Servicer authorization of the Servicing Agent to access the Service Loans application to service Freddie Mac Mortgages on Servicer's behalf.

SERVICING AGENTS

We are updating Section 51.4 to clarify Servicer and Servicing Agent obligations.

We are also updating Section 51.4 to provide that a Servicer may not engage more than one Servicing Agent for Freddie Mac Mortgages being serviced under a particular Seller/Servicer number at any one time. This does not prohibit Servicers from engaging more than one Servicing Agent provided that the Mortgages serviced by each Servicing Agent are serviced under separate Seller/Servicer numbers.

In addition, we are updating Section 51.4 to require that a Servicer notify Freddie Mac within one Business Day of expiration or termination of its contract with an approved Servicing Agent by either party.

SHORT PAYOFF REQUIREMENTS

We are updating Chapter B65 to provide additional guidance with respect to Freddie Mac's short payoff requirements. Specifically, we are:

- Providing that short sale negotiation fees must not be deducted from the proceeds of the sale or charged to the Borrower
- Clarifying that all amounts paid to any party in connection with the short payoff transaction, including payments made to holders of other liens on the Mortgaged Premises, must be accurately reflected on the HUD-1 Settlement Statement and the amount and recipient of the payments must be clearly identified
- Allowing a Borrower to receive a payment upon the sale of the Mortgaged Premises only if the payment is offered by the Servicer, approved by Freddie Mac, and reflected on the HUD-1 Settlement Statement
- Revising our short sale affidavit requirements to clarify that statements made in the affidavit are made to the best of each signatory's knowledge and belief and that each signatory is liable for his or her negligent or intentional misrepresentations, **but not those of other signatories to the affidavit.**

We are also providing other additional guidance with respect to the short sale affidavit, including the information that must be included in the affidavit.

The above changes are effective for short payoffs approved pursuant to Chapter B65 on and after **January 1, 2012**. However, Servicers are encouraged to incorporate these changes immediately.

Sections B65.37, *Eligibility Requirements*, and B65.40, *Approval Conditions*, have been updated to reflect these changes.

ESCALATED CASE REPORTING

Freddie Mac no longer requires the submission of the property address as part of reporting an escalated case.

We have updated Section 51.5.1, *Servicer Response to Complaints- Escalated Cases*, to reflect this change to our reporting requirements.

UNDERWRITING SERVICE MEMBERS UNDER HAMP

We are updating Sections C65.1, *Overview*, C65.5.1, *Verification of Eligibility*, and C65.6, *Underwriting the Borrower*, to provide further guidance on the interest rate and current principal and interest payments that must be used to calculate the target payment, the Current Monthly Housing Expense-to-income ratio, and eligibility for the Servicer "Pay for Success" incentive when the Mortgage is subject to the SCRA interest rate cap.

We are instructing Servicers to use the interest rate in effect prior to the granting of the SCRA relief (i.e., the contractual rate of interest on the Mortgage) when determining a service member's eligibility under HAMP. When evaluating the Borrower's Current Monthly Housing Expense-to-income ratio and

determining whether it is above or below 31%, Servicers must use the contractual payment that is in effect on the Note prior to the granting of the SCRA relief. The Borrower's contractual payment amount prior to granting the SCRA relief will be used by Freddie Mac in determining Servicing eligibility for the Servicer "Pay for Success" incentive payment rather than the payment amount that the service member pays under the SCRA.

LATE NOTICE/REMINDER

The Guide requires the Servicer to send a late notice to the Borrower no later than the 17th day of Delinquency. However, to the extent that the 17th day of Delinquency is a non-Business Day and Servicers are unable to send the notice sooner, Servicers may send the late notice on the next available Business Day after the 17th day of Delinquency.

We are updating Section 64.5, *Collection Efforts*, to reflect this additional flexibility when sending late notices/reminders.

TELEPHONE CONTACT WITH DELINQUENT BORROWERS

The Guide requires Servicers to contact delinquent Borrowers at least every third day until one of the conditions specified in Section 64.5, including quality right party contact, is met. The Guide also requires Servicers to call Borrowers on other specified days throughout the solicitation process, for example, the day after the Servicer has sent the Borrower Solicitation Package. With this Bulletin we are providing that when the day a Servicer is required to call the Borrower is a non-Business Day, and the Servicer is not open on such day to conduct loss mitigation and collection activities, the Servicer may call the Borrower on the next Business Day.

Sections 64.5 and 64.6, *Evaluation Hierarchy, Borrower Solicitation and Communication*, have been updated to reflect this change.

EXCLUSIONARY LIST

We are updating Section 2.24, *Freddie Mac Exclusionary List*, to reflect that access to the Exclusionary List is electronically available to Servicers through the Service Loans application.

As a reminder, Seller/Servicers are required to use the Exclusionary List to screen parties involved in the origination of a Mortgage delivered to Freddie Mac and the parties involved in Freddie Mac sales and Servicing functions for Freddie Mac Mortgages, as more completely described in Section 2.24(b). Servicers should refer to Sections 2.24 and 51.3(a) for additional information regarding required representations and warranties and other obligations with respect to use of the Exclusionary List.

The Exclusionary List is also available electronically through the Freddie Mac Selling System, Loan Prospector[®], Freddie Mac's Learning Center and MultiSuite[®].

SELLER/SERVICER OBLIGATION TO MAINTAIN MORTGAGE INSURANCE COVERAGE – RESPONSE TO MI REQUEST FOR INFORMATION AND DOCUMENTATION

As stated in our August 12, 2011 Industry Letter, Freddie Mac is seeing a material increase in mortgage insurer rescissions, cancellations and denials of coverage of Freddie Mac-owned Mortgages.

Seller/Servicers are reminded that it is both a selling and Servicing obligation to maintain mortgage insurance coverage for Freddie Mac's benefit. The obligation to maintain the mortgage insurance coverage includes responding in the required time frames to the MI's requests for information and documentation prior to the issuance by the MI of a rescission of coverage or a denial of claim. Once Freddie Mac is made aware that the MI has rescinded coverage or denied a claim, Freddie Mac will issue a repurchase request.

Before Freddie Mac is notified of the MI's decision to rescind coverage or deny a claim under such coverage for a given Mortgage, certain MIs may allow Seller/Servicers to appeal the MI rescission or claim denial decision to reinstate the mortgage insurance coverage or to facilitate a claim payment to

Freddie Mac. In these scenarios, Seller/Servicers must ensure that all applicable MI requirements for rescission or claim denial appeals are satisfied, in accordance with Section 53.2, *The Servicer to Satisfy FHA, VA, RHS and MI Requirements*. Specifically, if the MI requests information or documentation from the Seller/Servicer pertaining to the appeal of a rescission or claim denial decision, then the Seller/Servicer must work expeditiously to provide the information or documentation to the MI within the required time frames, so that Freddie Mac can regain full benefit of the mortgage insurance.

If the Seller/Servicer fails to provide required information for a rescission or claim denial appeal to the MI in a timely manner, Freddie Mac will issue a repurchase request to the Seller/Servicer after Freddie Mac is notified of the MI's original rescission or claim denial decision.

After Freddie Mac is made aware of the MI's decision to rescind coverage or deny claim under such coverage for a given Mortgage and issues a letter to the Seller/Servicer requiring repurchase of the Mortgage, any concurrent or outstanding Seller/Servicer appeal to the MI related to the Mortgage does not change the Seller/Servicer's obligation to repurchase Freddie Mac's interest in the Mortgage in accordance with Section 72.1, *Repurchases Required by Freddie Mac*.

As a further reminder, Section 72.6, *Appealing a Repurchase Request*, allows Seller/Servicers to file only one appeal within 30 days from the date of Freddie Mac's letter requiring repurchase, or within such other time frame as specified by Freddie Mac, if the Seller/Servicer has additional supporting information and/or documentation that may affect Freddie Mac's decision.

GUIDE UPDATES

Online Reimbursement System retirement

In Bulletin 2010-10 Freddie Mac announced the new Reimbursement System that has now replaced the Online Reimbursement System. Since the transition of Servicers to the new Reimbursement System was completed earlier this year, with this Bulletin, we are updating the Guide to remove all remaining references to the now retired Online Reimbursement System, and removing Chapter A71, *Reimbursement of Expenses – Online Reimbursement System*.

Exhibit 75, *Adjustment Codes for Expense Reimbursement Claims*, is being removed from the Guide as the codes listed in the exhibit are no longer valid. Additionally, when a claim is submitted in the Reimbursement System, the Servicer receives an on-screen notification that describes the reason for adjustment or denial of the claim.

Sections C65.6, C65.8, *Other General Requirements*, 66.61, *Reporting and Remittance Requirements*, 70.18, *Condominium/HOA and PUD Fees and Ground Rent*, and 70.20, *Reimbursement of Expenses Incurred*, and Exhibits 74, *Expense and Income Codes for Expense Reimbursement Claims*, and 88, *Servicing Tools*, have also been updated to remove references to the retired Online Reimbursement System.

MIDANET® for the PC retirement – additional updates to Volume 2

We have updated Section 61.13, *Assumability Provisions and Rate Cap Requirements for Adjustable-Rate Mortgages*, and Directory 8, and deleted Form 4, *Convertible Mortgage Conversion Confirmation*, to reflect the retirement of MIDANET for the PC announced in Bulletins 2011-14 and 2011-16.

REMINDERS

Seller/Servicer eligibility

With Bulletin 2011-18, we announced that **effective February 1, 2012**, our eligibility requirements will be revised to specify that wholly owned subsidiaries of Seller/Servicers that are non-depository and/or non-regulated institutions (such as Mortgage Bankers) must obtain a separate Freddie Mac approval in order to do business with Freddie Mac.

Servicers should review the updated Glossary definition of "Seller/Servicer" for additional information.

Repurchase late fee remittance

With Bulletin 2011-21 we updated Section 72.3, *Repurchase Price*, to indicate that repurchase late fees are charged monthly.

Additionally, we updated Sections 8.8.1, *Late Payment Policy*, and 72.3 to specify that the amount of any repurchase late fee will appear on the Seller account activity statement described in Section 17.2(e) and will be drafted from the Seller's Automated Clearing House (ACH) account in accordance with Section 17.2(g).

REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 2, A50, 51, 60, 64, B65, C65, 66, 70, A71 and A83
- Forms 4, 902, 902A, 902SA and 902ASA
- Exhibits 74, 75 and 88
- Directory 8

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