

# Bulletin

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NUMBER: 2012-13

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TO: Freddie Mac Servicers

June 13, 2012

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## SUBJECTS

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

- Revising our State foreclosure time line and related compensatory fee requirements
- Specifying the time frames within which a Servicer must send a modification agreement to its Document Custodian
- Updating our expense reimbursement requirements to:
  - Include a reimbursement time frame for non-Real Estate Owned (REO) claim submissions of taxes that were incurred and paid to a taxing authority
  - Remove the expense code used for inspection fees payable by MIs
- Permitting Servicers to forward REO-related remittances by wire transfer to Freddie Mac
- Updating Guide Section A65.27, *Short-Term Unemployment Forbearance*, to emphasize that the Borrower’s level of Delinquency is not applicable if the Borrower is being considered for short-term unemployment forbearance
- Updating the Guide to clarify that Borrowers in bankruptcy are excluded from the quality right party contact performance standard
- Adding new Guide Chapter 57, *Fraud Prevention, Detection and Reporting*, to Volume 2 of the Guide (“Volume 2”), to restate the requirements contained in Chapter 7, *Fraud Prevention, Detection and Reporting*, in Volume 1 of the Guide (“Volume 1”)
- Updating Section 53.15, *MERS*®, (formerly titled “Post-Purchase MERS Registration”) to require Servicers to manage “Legal Filings” on behalf of Freddie Mac in order to comply with revised Rule 14 of the *MERS*® System Rules of Membership (“MERS Rule 14”)

In addition, we are providing the following notifications, updates and reminders:

- Regarding Balloon/Reset Mortgages:
  - Announcing the new Servicing Maturing Balloon/Reset Mortgages Quick Reference Guide (“Balloon/Reset Quick Reference Guide”) (formerly the “Balloon/Reset Manual”) on our web site at: [http://www.freddiemac.com/learn/pdfs/service/balloon\\_qr.pdf](http://www.freddiemac.com/learn/pdfs/service/balloon_qr.pdf)
  - Notifying Servicers that although Freddie Mac will no longer purchase Balloon/Reset Mortgages originated on Fannie Mae balloon documents effective September 1, 2012 (see Bulletin 2012-11), there are no changes to the requirements for Servicing Balloon/Reset Mortgages that were originated on acceptable Fannie Mae balloon documents and are Freddie Mac-owned or are purchased prior to September 1, 2012

- Updating cross-references in Volume 2 to refer to Chapter 3, *Special Requirements for Electronic Transactions*, which replaced Section 1.3, *Acknowledgment and Consent to Electronic Transactions* (as announced in Bulletin 2012-11)
- Updating Guide Form 1034B, *Custodial Certification Schedule – Balloon Loan Modification*, to provide our new mailing address for delivery of the form

## EFFECTIVE DATE

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

## STATE FORECLOSURE TIME LINES AND RELATED COMPENSATORY FEES

### Effective for all foreclosure sales completed on or after January 1, 2012

#### State foreclosure time lines

We have revised our State foreclosure time lines in Guide Exhibit 83, *Freddie Mac State Foreclosure Time Lines*.

#### Allowable delays in completing a foreclosure

We have revised the Guide to add the following circumstances in which the State foreclosure time line will be extended for a Mortgage:

- Delays where the Borrower entered a Standard Modification Trial Period Plan but failed to comply with the terms of the plan
- Delays where the Borrower entered into an unemployment forbearance plan
- Delays caused by the Borrower filing for Chapter 11 bankruptcy

Refer to revised Section 66.32(a) and Exhibit 83A, *Determining State Foreclosure Time Line Performance Compensatory Fees*, for details related to the allowable delays in completing a foreclosure.

Further, we are granting additional time for allowable delays that are due to contested foreclosures, probate and military indulgence under the Servicemembers Civil Relief Act of 2003 or similar State law providing relief to active duty military service members.

Refer to revised Exhibit 83A for the manner in which Freddie Mac calculates the additional time granted for each of the allowable delays.

In addition, we have reposted the allowable State foreclosure time line delay in which the foreclosure and/or bankruptcy was handled by a designated counsel or trustee **for Mortgages referred to foreclosure prior to October 1, 2011**. Refer to revised Section 66.15.1, *Compensatory Fee for Failure to Use Designated Counsel or Trustee when Required*, for details related to this allowable delay.

#### Compensatory fees

If the Servicer exceeds the State foreclosure time line (Due Date of Last Paid Installment (DDLPI) to foreclosure sale) on a Mortgage plus any extension for 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.

We have revised the calculation for State foreclosure time line compensatory fees **for Mortgages referred to foreclosure on or after October 1, 2011**. Foreclosure sales that are completed by Servicers and are under the State foreclosure time line standard will now offset foreclosure sales that exceed the State foreclosure time line for that particular State only. This change may be referred to as intra-State netting, which is the process of totaling the performance of Mortgages (within a particular State) that are managed both under and over Freddie Mac State foreclosure time lines.

## **Appeal process**

We have updated our requirements concerning the compensatory fee 30 day appeal process to permit Servicers to appeal the results set forth on the Monthly Compensatory Fee Analysis Report by submitting data that was not previously reported, or inaccurately reported. Freddie Mac will use the information submitted in connection with an appeal to re-calculate a Servicer's compensatory fee amount that will appear on the Servicer non-Performing Loans Invoice. Servicers should review the recent changes that were made to the compensatory fees assessed for researching and reconstructing Servicer records and were announced in Bulletin 2012-7.

Servicers must submit, in their original appeal, a description of all delays along with all related documentation. Any information that is received after the original appeal is submitted will not be considered.

Sections 66.15.1, 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 State foreclosure time line and related compensatory fee changes.

## **SENDING MODIFICATION AGREEMENT TO SERVICER DOCUMENT CUSTODIAN**

We have updated Sections B65.25, *Loan Modification Documents*, and C65.7, *Modification Process*, to specify the time frames within which a Servicer must send a modification agreement to its Document Custodian. The Servicer must send to the Document Custodian:

- The fully executed modification agreement or, if recordation of the modification agreement is required, a certified copy of the modification agreement, within 25 days of the Servicer receiving it from the Borrower
- A modification agreement that is returned from the recorder's office within five Business Days after receiving it from the recorder's office

## **REIMBURSEMENT OF EXPENSES**

### **Reimbursement time frame for non-REO claim submissions**

#### **Effective July 16, 2012**

Section 71.14, *Reimbursement of Taxes*, provides the time frame in which taxes incurred and paid by the Servicer are reimbursable on REO claim submissions. However, there is no explicit reimbursement time frame in Section 71.14 for taxes incurred and paid in connection with non-REO events.

We have updated Section 71.14 to provide that with respect to non-REO claim submissions, Servicers that are in compliance with the requirements of Sections 59.1, *Escrow for Taxes, Ground Rents, Assessments and Other Charges*, and 66.29, *Expenses That May Become First Liens on the Property*, will be reimbursed for taxes that were incurred and paid to a taxing authority up to 12 months prior to the DDLPI through the payoff date.

### **Removal of expense code used for inspection fees payable by MIs**

#### **Effective August 1, 2012**

In Bulletin 2011-5, Freddie Mac introduced new expense codes with increased reimbursement amounts for interior and exterior property inspections.

Effective August 1, 2012, we are removing expense code 404006 "Inspection Fees Payable by MIs." Servicers will be reimbursed for property inspection expenses incurred as outlined in Section 71.17, *Reimbursement for Property Inspection and Property Preservation Expenses*, and no longer need to use a separate expense code for property inspection fees payable by MIs. Servicers must continue using expense codes 404007, "Interior Property Inspection," and 404005, "Exterior Property Inspection," to request reimbursement for interior and exterior inspections, respectively.

Exhibits 57 and 74, *Expense and Income Codes for Expense Reimbursement Claims*, have been updated to reflect this change.

## **REO-RELATED REMITTANCES**

Sections 71.29, *Forwarding Remittances to Freddie Mac*, and 77.21, *Remitting via the Automated Cash Remittance System*, require that Servicers forward remittances for REO-related funds to a lockbox mailing address provided in Directory 6. Effective immediately, Servicers may also forward REO-related remittances by wire transfer to Freddie Mac.

Sections 71.29, 77.21 and the Directory have been updated to reflect this change. The updated Directory provides the applicable wire transfer instructions.

## **UNEMPLOYMENT FORBEARANCE**

In Bulletin 2012-2, we introduced the unemployment forbearance relief option, which includes requirements for both short-term and extended unemployment forbearance.

With this Bulletin, we are updating the short-term unemployment forbearance requirements to emphasize that a Servicer must not consider a Borrower's level of Delinquency when determining the length of the short-term unemployment forbearance period.

However, if a Borrower remains unemployed at the end of the short-term unemployment forbearance period and is eligible for extended forbearance, a Servicer must verify that any extended forbearance period granted may not extend beyond a term that would cause the Delinquency to exceed 12 months of the Borrower's contractual monthly Mortgage payment, including taxes and insurance, if the Servicer is collecting Escrows for such expenses.

Section A65.27 has been updated to reflect this additional guidance.

## **QUALITY RIGHT PARTY CONTACT PERFORMANCE STANDARD**

In Bulletin 2011-11, we introduced the quality right party contact performance standard. With this Bulletin, we are updating the Guide to clarify that Borrowers in bankruptcy are excluded from the quality right party contact performance standard.

Sections 64.4, *Collection Efforts*, and 65.8, *Performance Standards*, have been revised to reflect this update.

## **FRAUD PREVENTION, DETECTION AND REPORTING**

### **Fraud prevention, detection and reporting requirements**

Previously, our fraud prevention, detection and reporting requirements ("fraud requirements") for Seller/Servicers were contained in Chapter 7 in Volume 1, with an abbreviated version in Section 51.3(e) in Volume 2 referring to Chapter 7 for complete information. In order to enhance Servicers' access to these provisions, we have added new Chapter 57 in Volume 2, which fully restates the Chapter 7 fraud requirements. With the addition of Chapter 57, the fraud requirements in Section 51.3, *Servicing Facilities and Duties*, have been deleted.

### **Quality control and fraud prevention resources**

We have updated the quality control and fraud prevention resources on [FreddieMac.com](http://FreddieMac.com)

Information about these updated resources is provided in Section 57.6, *Additional Resources*, and revised Sections 7.6, *Additional Resources*, and 22.15(b).

## **Reminder – Notifying Freddie Mac of mortgage insurance termination or denial of mortgage insurance coverage due to fraud**

As stated in our August 12, 2011 Industry Letter, Seller/Servicers must notify Freddie Mac of termination or denial of mortgage insurance coverage of Freddie Mac-owned Mortgages based on fraud. These requirements appear in Section 7.3(a) and in new Section 57.3(a).

## **REVISIONS TO MERS RULE 14**

On February 1, 2012, revisions to MERS Rule 14 went into effect. Pursuant to revised MERS Rule 14, Section 2(e), Servicers managing "Legal Filings" (as described in MERS Rule 14) on behalf of Freddie Mac (a MERS Member and a named Investor appearing on the MERS System) are required, when applicable, to provide various notifications and information to MERS about such Legal Filings.

With this Bulletin, we are revising Section 53.15 to add a specific instruction regarding a Servicer's obligations with respect to MERS Rule 14.

As a reminder, pursuant to Section 51.4, *Servicer and Servicing Agents*, a Servicer that designates another Servicer as its Servicing Agent continues to be responsible and liable to Freddie Mac for all Servicing requirements and all representations and warranties in accordance with the terms of the Purchase Documents. Therefore, as with any Servicing responsibility under the Purchase Documents, the Servicer is responsible for the Servicing Agent's compliance with the requirements of Section 53.15(c) regarding MERS Rule 14.

## **ADDITIONAL NOTIFICATIONS, UPDATES AND REMINDERS**

### **Balloon/Reset Mortgages**

#### *Servicing Maturing Balloon/Reset Mortgages Quick Reference Guide*

In Bulletin 2011-16, we retired Chapter 83, *Additional Servicing Requirements for Balloon/Reset Mortgages*, and replaced it with new Chapter A83, *Additional Servicing Requirements for Balloon/Reset Mortgages*, effective October 1, 2011.

At that time, we indicated that we were in the process of updating the Balloon/Reset Manual to reflect the retirement of MIDANET<sup>®</sup>, the implementation of the Freddie Mac Service Loans application and the new Chapter A83 references. With this Bulletin, we are announcing that we have completed the update and that the new Balloon/Reset Quick Reference Guide is available on our web site at:

[http://www.freddiemac.com/learn/pdfs/service/balloon\\_qr.pdf](http://www.freddiemac.com/learn/pdfs/service/balloon_qr.pdf).

Chapter A83 has been updated to refer to the new Balloon/Reset Quick Reference Guide.

#### *Removal of Fannie Mae balloon documents*

Bulletin 2012-11 notified Freddie Mac Sellers that effective September 1, 2012, Freddie Mac will no longer purchase Balloon/Reset Mortgages originated on Fannie Mae balloon documents. We also updated Chapter A83, to reflect that Balloon/Reset Mortgages originated on Fannie Mae balloon documents will be ineligible for sale to Freddie Mac.

We are notifying Servicers that while the origination document requirements have changed, there are no changes to the requirements for Servicing Balloon/Reset Mortgages that were originated on acceptable Fannie Mae balloon documents and are Freddie Mac-owned or are purchased prior to September 1, 2012. This includes the requirements for calculating Required Net Yield (RNY).

### **Electronic Transactions**

In Bulletin 2012-11, we relocated our requirements for conducting Electronic Transactions from Section 1.3 to new Chapter 3.

With this Bulletin, we are updating provisions and changing cross-references in Volume 2 to reflect the changes resulting from the relocation.

We are also updating the methods of copying Mortgage file documents and clarifying the types of document formats in which such documents can be maintained to reflect common industry practices in Section 52.2, *Form*. Effective for Mortgages with Note Dates on or after **July 1, 2013**, Servicers may no longer copy and maintain Mortgage file documents and Records on microfilm or microfiche, but may scan (or continue to scan) and store such documents as Portable Document Format (PDF), Tagged Image File (TIF) format, Joint Photograph Experts Group (JPEG) format, or other electronic document formats commonly used at this time by the mortgage industry in the regular course of business.

Section 52.2 and Section 56.8, *Transfer of Records*, have been revised to reflect this requirement.

In addition, we are reminding Servicers that if a document is created electronically and contains or has associated data, the Servicer should store the Electronic (as defined in Chapter 3) document in its original Electronic document format and not convert it to another Electronic document format that may alter, garble or destroy the Electronic document view (image on a computer screen or printed on paper) or the data content (data contained in or associated with the Electronic document).

### **Delivery of Form 1034B**

We have updated Form 1034B to reflect a new address for delivery of the original certified form to Freddie Mac.

### **REVISIONS TO THE GUIDE**

The revisions included in this Bulletin impact the following:

- Chapters 7, 22, 48, 50, A50, 51, 52, 53, 56, 57, 64, 65, A65, B65, C65, D65, 66, 71, 77 and A83
- Forms 479A, 902, 902SA, 960 and 1034B
- Exhibits 57, 74, 83, 83A, 88 and 91
- Directory 6
- Glossary

### **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