

Bulletin

NUMBER: 2012-18

TO: Freddie Mac Sellers and Servicers

September 11, 2012

SUBJECT: NEW REPRESENTATION AND WARRANTY FRAMEWORK

With this *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin, we are announcing a new selling representation and warranty framework effective in 2013. At the direction of the Federal Housing Finance Agency (FHFA) and jointly with Fannie Mae, we have modified our representation and warranty framework to provide more certainty and transparency for Sellers. This new framework reinforces the vital role Sellers play in originating and delivering eligible Mortgages. This new selling representation and warranty framework is effective for Mortgages with Freddie Mac Settlement Dates on and after **January 1, 2013**, provided the Mortgages have acceptable payment histories and meet other conditions and requirements as more fully described below.

Background

While the mortgage industry has undergone significant changes in the past few years, the fundamental importance of our selling representations and warranties has not changed. Selling representations and warranties are a long-standing means for enhancing liquidity in the mortgage origination process while protecting Freddie Mac from Mortgages not underwritten to prescribed standards. They are the Seller’s assurance to Freddie Mac that a Mortgage sold to Freddie Mac complies in all respects with the requirements of the Purchase Documents, and if that is found not to be the case, Freddie Mac may exercise its remedies, including the issuance of a repurchase request.

While the current representation and warranty framework has streamlined and brought liquidity to the mortgage finance industry, it has also resulted in costly and time-consuming enforcement activities. The new representation and warranty framework will provide the mortgage finance industry with more certainty and transparency going forward regarding repurchase requests and assure that Freddie Mac’s loan portfolio is of a high quality.

In addition to this Bulletin, we are also issuing an Industry Letter today, which describes some of the quality control processes currently in place, as well as possible changes to our quality control processes that will likely result from our implementation of this new representation and warranty framework. The September 11, 2012 Industry Letter is not part of the Purchase Documents and is meant to provide Sellers with a preview of how the new framework is expected to impact aspects of our quality control processes.

In adopting this new framework, we are not modifying the representations and warranties currently in effect, nor are we discharging Sellers from responsibility for underwriting and delivering quality Mortgages in accordance with the requirements of the Purchase Documents. In addition, this framework does not affect any Servicing representations and warranties.

Overview

Under the new selling representation and warranty framework, once a Mortgage has established an acceptable payment history and if it meets certain eligibility criteria, all as described in new Guide Section 6.14, *Enforcement of Representations and Warranties Related to Underwriting of the Borrower, Mortgaged Premises and Project*, and more fully below, Freddie Mac will not exercise its remedies, including the issuance of a repurchase request, in connection with the Seller/Servicer's breaches of certain selling representations and warranties set forth in the Guide, enumerated in Attachment A, *List of Guide Chapters and Sections Affected by New Representation and Warranty Framework*, to this Bulletin, relating to:

- The underwriting of the Borrower, which includes the Seller's assessment of the Borrower's loan terms, credit history, employment and income, assets, and other financial information used for qualifying the Borrower for the Mortgage
- The underwriting of the Mortgaged Premises, which is the analysis of the description and valuation of the Mortgaged Premises to determine its adequacy as collateral for the Mortgage
- The underwriting of the project in which the Mortgaged Premises is located, which is the analysis of the Planned Unit Development (PUD) or Condominium Project

EFFECTIVE DATE

All of the changes announced in this Bulletin are effective only for Mortgages with Freddie Mac Settlement Dates on and after **January 1, 2013**.

ELIGIBLE MORTGAGES

To be eligible for the new selling representation and warranty framework, a Mortgage must:

- Have a Freddie Mac Settlement Date on or after January 1, 2013
- Have an acceptable payment history by meeting the following:
 - For Mortgages other than Freddie Mac Relief Refinance MortgagesSM:
 - The Borrower had no 30-day or greater Delinquencies during the first 36 months following the Freddie Mac Settlement Date, or
 - The Borrower (i) had no more than two 30-day Delinquencies, and no 60-day or greater Delinquencies, during the first 36 months following the Freddie Mac Settlement Date, and (ii) was current as of the 60th month following the Freddie Mac Settlement Date
 - For Relief Refinance Mortgages:
 - The Borrower had no 30-day or greater Delinquencies during the first 12 months following the Freddie Mac Settlement Date, or
 - The Borrower (i) had no more than two 30-day Delinquencies, and no 60-day or greater Delinquencies, during the first 36 months following the Freddie Mac Settlement Date, and (ii) was current as of the 60th month following the Freddie Mac Settlement Date

The Mortgage must not have been subject to a forbearance agreement, repayment plan, or otherwise have been modified from its original terms during the first 12, 36 or 60 months following the Freddie Mac Settlement Date, as applicable, based on the acceptable payment history described above.

In addition, in connection with the payment history above, with the exception of temporary subsidy buydown arrangements permitted by the Purchase Documents, neither the Seller/Servicer nor any third party may escrow or advance funds to be used for payment of any monthly installment, principal, interest or other charge payable under the terms of the Mortgage.

- Be a conventional Mortgage delivered to Freddie Mac through a flow purchase contract (that is, not sold through the bulk path)

- Not be a Mortgage that Freddie Mac and the Seller/Servicer have agreed is subject to any credit enhancement other than primary mortgage insurance
- Not have an outstanding request for a repurchase, a repurchase alternative or a make-whole

NOTE: Unless otherwise agreed to by Freddie Mac and the Seller/Servicer, once a Mortgage has qualified for the new representation and warranty framework by compliance with the requirements above, its eligibility for the new framework is final and irrevocable subject to the life of loan exclusions.

EXCLUSIONS – LIFE OF LOAN SELLING REPRESENTATIONS AND WARRANTIES

For Mortgages that have an acceptable payment history and meet the other conditions and requirements described above, the Seller/Servicer will not be relieved from Freddie Mac’s enforcement of its representations and warranties with respect to the following matters, even if such issues are referenced in the Guide sections specified in Attachment A. Instead, the Seller/Servicer will be responsible for all such representations and warranties for the life of the loan.

Charter matters

Each Mortgage must be eligible for purchase under the Freddie Mac Charter Act (“Charter”) in the following respects:

- The Mortgage must be secured by a residential property that is located within any of the 50 States, the District of Columbia, Guam, Puerto Rico or the U.S. Virgin Islands at the time of Freddie Mac’s purchase, as set forth in Section 22.18, *Location of the Mortgaged Premises*, and the definition of a State in the Glossary
- The original unpaid principal balance of the Mortgage must not exceed the maximum original loan amounts set forth in Sections 23.3, *Maximum Original Loan Amounts for Home Mortgage Purchases*, and L33.2, *Maximum Original Loan Amounts for Super Conforming Mortgages*
- The Mortgage must not be secured by vacant land or property primarily used for agriculture, farming or commercial enterprise at the time of Freddie Mac’s purchase
- The Mortgage must be secured by a residential property consisting of 1-4 dwelling units at the time of Freddie Mac’s purchase
- Any Mortgage with a loan-to-value (LTV) ratio in excess of 80% at the time of Freddie Mac’s purchase must (i) have mortgage insurance on the portion of the Mortgage in excess of 80% of the property’s value (determined in accordance with Section 27.1, *Mortgage Insurance*, or in the case of Relief Refinance Mortgages, meet the applicable mortgage insurance requirements in the Guide), (ii) be sold with recourse, within the meaning of Section 11.10(a), or (iii) be sold on a participation basis

Example

An illustrative example of a breach of a Charter requirement includes, but is not limited to, a Mortgage secured by a property that consists of a primary residence and a dairy farm, resulting in the property having significant nonresidential use.

Misstatements, misrepresentations, omissions and data inaccuracies

The Mortgage must not have any misstatement, misrepresentation or omission, by any party (including, but not limited to, the Seller, Borrowers, property sellers, builders, real estate agents, lenders, mortgage brokers, loan officers, originators, appraisers, appraisal companies, closing agents, title companies or other third party vendors) pertaining to the requirements described in the chapters and sections of the Guide set forth in Attachment A, that:

- Involved two or more Mortgages or related real estate transactions, and
- Was made by two or more of the aforementioned parties

The Seller’s knowledge of the misstatement, misrepresentation or omission is irrelevant.

Additionally, the Mortgage must not have any Uniform Loan Delivery Dataset (ULDD) data inaccuracies pertaining to the requirements described in the chapters and sections of the Guide set forth in Attachment A, if, and to the extent:

- Such ULDD data differs from the information documented in the Mortgage file which was used by the Seller to determine Mortgage eligibility
- The information documented in the Mortgage file indicates that the Mortgage was not eligible for purchase by Freddie Mac, and
- Multiple Mortgages are involved

NOTE: Prior to satisfaction of the applicable payment history requirements, Mortgages are subject to Freddie Mac's standard requirements related to misrepresentation, misstatements and omissions as described in the Guide.

Seller/Servicers continue, at all times, to be responsible for any misrepresentation, misstatement and omissions in connection with matters not addressed in the chapters and sections of the Guide set forth in Attachment A.

Examples

The following examples illustrate some instances of misstatements, misrepresentations, omissions or data inaccuracies:

- An omission where the Seller/Servicer may be required to repurchase the Mortgage(s) even though the Mortgage is otherwise eligible for relief:
 - A realtor and a property developer decide that in order to sell several new homes faster, they would provide several Borrowers with a \$15,000 rebate paid outside of closing that would not be disclosed in the sales contract or HUD-1 Settlement Statement. This practice is in violation of Freddie Mac's interested party contribution requirements. The Seller/Servicer must repurchase the Mortgages, in this instance, if requested, even if 36 timely payments were made and the Mortgages are otherwise eligible for relief, because this omission involved two or more Mortgages and related real estate transactions and was made by two or more of the parties involved.
- A misrepresentation where the Seller/Servicer will not be required to repurchase the Mortgage:
 - A Borrower borrows \$10,000 from his friend as part of a down payment on a home. He has promised to pay his friend back with interest. The Borrower provides a falsified gift letter to the Seller. After 36 timely payments, the Seller/Servicer would not be required to repurchase the loan even if the Seller/Servicer subsequently discovered that part of the down payment was borrowed because the Borrower's misrepresentation to the Seller affected only one loan.
- Data inaccuracies:
 - As a result of a system upgrade, a coding error is introduced into a Seller's system such that the Indicator Score is incorrectly calculated and the Seller reports inaccurate Indicator Scores at loan delivery. A review of the credit reports in the Seller's origination files shows that for multiple Mortgages the actual Indicator Scores were lower than those reflected in the data provided at delivery and the actual Indicator Scores did not meet Freddie Mac's eligibility requirements. The Seller would be responsible for remedying the systemic error, and may be required to repurchase the affected loans.
 - The Seller significantly reduces its data delivery quality control staff and as a result, multiple Mortgages are delivered as eligible condominiums when the Mortgages were not eligible for delivery. The Seller is responsible for maintaining adequate staff and system controls to ensure that the loan-level data that is being reported to Freddie Mac (and ultimately mortgage loan investors) is true, correct, and complete. The Seller would be responsible for remedying the systemic error, and may be required to repurchase the affected Mortgages.

- Fraudulent conduct where the Seller/Servicer will be required to repurchase the Mortgage because the matter is not addressed in the chapters and sections of the Guide set forth in Attachment A:
 - A Seller delivers a Mortgage to Freddie Mac. The Seller then sells the same Mortgage to another investor. Freddie Mac, upon discovery of the double sale, requires the Seller to repurchase the Mortgage even though the Mortgage is otherwise eligible for representation and warranty relief.

Clear title/First Lien priority

The Mortgage must be enforceable as a First Lien (with no pending condemnation proceedings) and have clear title through foreclosure.

Examples

Illustrative examples of a breach of these First Lien enforceability requirements include, but are not limited to, the following:

- Another party, such as a warehouse lender, asserts a claim to or interest in the loan
- Freddie Mac is unable to obtain clear title to the property because it is not in First Lien position
- The Seller fails to properly endorse the Note or to adhere to requirements for the use of powers of attorneys
- A Mortgage is delivered to Freddie Mac with a Property Assessed Clean Energy (PACE) loan secured by the property and the Mortgage does not meet Freddie Mac's eligibility requirements for Mortgages delivered with PACE loans
- Improvements that were included in the appraised value of the property do not fall completely within the property's boundaries or building restriction lines and were not otherwise permitted encroachments as described in Section 39.4, *Acceptable Exceptions to Title Insurance or to Attorney's Opinion of Title*
- A Mortgage encumbered with a private transfer fee covenant prohibited by 12 C.F.R. Part 1228 is delivered to Freddie Mac

Compliance with laws

The Mortgage must comply with all applicable federal, State and local laws, ordinances, regulations and orders, including, without limitation, State anti-predatory lending laws and regulations.

Examples

Illustrative examples of a breach of these compliance with laws requirements include, but are not limited to, the following:

- The appraisal for a Mortgage does not conform to Guide Exhibit 35, *Appraiser Independence Requirements*, or the Uniform Standards of Professional Appraisal Practice (USPAP)
- A Mortgage is secured by a unit in a Condominium Project that was not created in compliance with applicable State law
- A Mortgage has a Borrower that is a living trust that was not formed in accordance with applicable law
- A Texas Equity Section 50(a)(6) Mortgage was not originated in accordance with Texas law

Mortgage product eligibility

The Mortgage must be a Mortgage product eligible for sale to Freddie Mac. The Seller/Servicer will not be relieved of Freddie Mac's enforcement of its representations and warranties for ineligible Mortgage products, including, but not limited to, the following:

- A Mortgage with an interest-only feature
- An ineligible ARM

- A Mortgage originated with stated or no income and/or asset documentation

QUALITY CONTROL REVIEW OF PERFORMING MORTGAGES

If Freddie Mac performs a quality control review of a performing Mortgage prior to the Borrower meeting the acceptable payment history requirements described above, and determines that it is not acceptable quality (i.e., does not meet the requirements of the Seller's Purchase Documents), Freddie Mac will communicate to the Seller/Servicer whether the Mortgage will require action on the part of the Seller/Servicer and/or will continue to be eligible for representation and warranty relief going forward.

AUTOMATIC REPURCHASE TRIGGERS

Any Mortgage for which no scheduled payments were made for the first three months after the Freddie Mac Settlement Date (i.e., the Borrower is 90 days delinquent) will be subject to a repurchase request. However, a Seller/Servicer may appeal the repurchase request by providing documentation that an extenuating circumstance caused the Borrower to default. Freddie Mac in its sole discretion may agree to rescind the repurchase request after a loan file review to determine that the loan otherwise meets Freddie Mac's requirements.

REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact Sections 6.14 and 72.1, *Repurchases Required by Freddie Mac*.

TRAINING

We encourage you to attend our new webinar, *Representation and Warranty Framework*, available on Freddie Mac's Learning Center.

Information is available at:

<http://www.freddiemac.com/ontrack/html/LearningCenter/ClassDescription.jsp?crsNum=NRWF>

CONCLUSION

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

Sincerely,



Laurie A. Redmond
Vice President
Offerings Effectiveness

List of Guide Chapters and Sections Affected by New Representation and Warranty Framework

Effective for Mortgages with Freddie Mac Settlement Dates on and after January 1, 2013

For Mortgages (including Mortgages sold on a flow basis pursuant to negotiated provisions) that have an acceptable payment history and meet the other conditions, requirements and exclusions described in the Bulletin, Freddie Mac will not exercise its remedies, including the issuance of a repurchase request, in connection with the Seller/Servicer's breaches of representations and warranties related to the underwriting of the Borrower, the Mortgaged Premises and the project in which the Mortgaged Premises is located, as more fully described in this Bulletin and as set forth in the following provisions of the Guide. (NOTE: This includes the following provisions of the Guide as amended by the Seller's Purchase Documents, if applicable.)

Guide chapter/section	Title of chapter or section and where noted, exclusions to provisions in the chapter/section Note: Where the following provisions of the Guide contain references to requirements located in other chapters and/or sections of the Guide, Freddie Mac will not exercise its remedies in connection with breaches of representations and warranties related to those requirements only if the section where the requirement is located is included below.
Section 2.2.1	Introduction to Loan Prospector [®]
Section 2.9	Assumption of Mortgage
Section 22.2	Investment Quality Mortgage With the exception of the Mortgage being adequately secured by real property
Section 22.5	Term With the exception that the Mortgages must not have an original maturity that exceeds 40 years from the Origination Date or the Effective Date of Permanent Financing for Construction Conversion or Renovation Mortgages
Subsection 22.6(c)	Collateral Documentation: Settlement Dates More than 120 Days after the Note Date
Section 22.16	Occupancy
Section 22.20	No circumstances Adversely Affecting Value of Mortgage
Section 22.22	Second Home Mortgages
Section 22.22.1	Investment Property Mortgages
Section 22.23	Inclusionary Zoning
Section 22.24	Purchase Requirements for Mortgages Secured by Properties without Resale Restrictions (Nonrestricted Properties)
Section 22.25	Purchase Requirements for Mortgages Secured by Properties with Resale Restrictions (Restricted Properties)
Section 22.26	Impact of Contaminated Sites
Section 22.30	Blanket Mortgages
Chapter 23	Maximum Loan Amounts and LTV, TLTV and HTLTV Ratios
Chapter 24	Refinance Mortgages

Guide chapter/section	<p align="center">Title of chapter or section and where noted, exclusions to provisions in the chapter/section</p> <p>Note: Where the following provisions of the Guide contain references to requirements located in other chapters and/or sections of the Guide, Freddie Mac will not exercise its remedies in connection with breaches of representations and warranties related to those requirements only if the section where the requirement is located is included below.</p>
Chapter A24	Freddie Mac Relief Refinance Mortgages SM – Same Servicer with LTV ratios greater than 80%
Chapter B24	Freddie Mac Relief Refinance Mortgages SM – Open Access
Chapter C24	Freddie Mac Relief Refinance Mortgages SM – Same Servicer with LTV ratios less than or equal to 80%
Chapter 25	<p>Secondary Financing and Other Financing Agreements</p> <p>With the exception of the requirements that for any Mortgage with a buydown plan, the initial interest rate may not be more than 3% below the Note Rate and the buydown plan may not extend for more than 3 years</p>
Chapter 26	Borrower Funds
Subsection 27.1.1(a)	Financed premiums (mortgage insurance premiums)
Subsection 30.16(b)	Calculating Borrower ratios for ARMs
Chapter 32	Special Eligibility Requirements for Seller-Owned Converted and Seller-Owned Modified Mortgages
Chapter C33	A-minus Mortgages
Chapter E33	Affordable Merit Rate Mortgages
Chapter F33	Financed Permanent Buydown Mortgages
Chapter H33	<p>Manufactured Homes</p> <p>With the exception of subsections H33.2(a) and (b) regarding the characteristics and requirements of a Manufactured Home</p>
Chapter K33	Construction Conversion and Renovation Mortgages
Chapter L33	Super Conforming Mortgages
Chapter A34	Home Possible [®] Mortgages
Chapter 37	Underwriting the Borrower
Chapter 41	<p>Special Warranties for Leasehold Estates</p> <p>With the exception of subsection 41.1(b) regarding warranties for leasehold Mortgages</p>

Guide chapter/section	Title of chapter or section and where noted, exclusions to provisions in the chapter/section Note: Where the following provisions of the Guide contain references to requirements located in other chapters and/or sections of the Guide, Freddie Mac will not exercise its remedies in connection with breaches of representations and warranties related to those requirements only if the section where the requirement is located is included below.
Chapter 42	Special Requirements for Condominiums With the exception of: <ul style="list-style-type: none"> ■ Section 42.2 relating to project insurance requirements ■ Section 42.2 relating to title insurance ■ Section 42.2 relating to project ownership ■ Subsection 42.3(a) Project subject to federal or State securities regulations ■ Subsection 42.3(b) Hotel/Resort Projects ■ Subsection 42.3(d) Project with non-incident commercial space ■ Subsection 42.3(e) Common-interest apartment project ■ Subsection 42.3(f) Project with fragmented or segmented ownership ■ Subsection 42.3(g) Timeshare project ■ Subsection 42.3(h) Houseboat project ■ Subsection 42.3(n) Continuing Care Retirement Community (CCRC) ■ Subsection 42.6(f) Compliance with laws ■ Subsection 42.6(g) Limitations on ability to sell/Right of first refusal ■ Subsection 42.6(i) Mortgagee consent ■ Subsection 42.6(j) Rights of Condominium mortgagees and guarantors
Chapter 43	Special Warranties for Planned Unit Developments With the exception of subsection 43.2(b) relating to insurance requirements
Chapter 44	Appraisals, Inspections and the Property Inspection Alternative With the exception of: <ul style="list-style-type: none"> ■ Subsection 44.2(a) Residential requirements ■ Subsection 44.3(a) relating to Exhibit 35, Appraiser Independence Requirements ■ Section 44.4 relating to the USPAP