

Bulletin

NUMBER: 2012-23

TO: Freddie Mac Servicers

October 31, 2012

SUBJECTS

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

- Announcing delegation agreements with MIs for standard short sales and deeds-in-lieu of foreclosure
- Updating our Servicer mortgage insurance claim documentation delivery requirements
- Aligning our Imminent Default Hardship documentation requirements for Home Affordable Modification Program (HAMP) modifications and Freddie Mac Standard Modifications with the documentation requirements in Guide Section 65.17, *Verifying a Borrower's Hardship*
- Announcing the use of the Automated Clearing House (ACH) to receive reimbursement of expenses and payment of incentives
- Revising our requirements for recommending a charge-off to Freddie Mac
- Revising our requirements for pre-referral account reviews
- Revising our reimbursement requirements with respect to the reimbursement of the first tax penalty on a non-escrowed Mortgage
- Adding provisions relating to diversity and inclusion as required by the Housing and Economic Recovery Act of 2008 (HERA) and the Federal Housing Finance Agency (FHFA) implementing regulations
- Updating Section 51.3(a) in Volume 2 of the Guide to refer Servicers to Section 2.24, *Freddie Mac Exclusionary List*, in Volume 1 of the Guide, which includes all Servicer requirements relating to the Exclusionary List

EFFECTIVE DATE

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

MI DELEGATIONS OF AUTHORITY

Effective November 1, 2012

Freddie Mac is pleased to announce that it has reached agreements with several MIs allowing Freddie Mac and its Servicers to review and approve alternatives to foreclosure for Mortgages covered by mortgage insurance policies without obtaining pre-approval from the applicable MIs. These standard delegation agreements were agreed to by each MI, Freddie Mac and Fannie Mae as part of the Servicing Alignment Initiative (SAI) under the auspices of FHFA. The list of MIs participating in this effort can be reviewed by logging into the Freddie Mac Service Loans application then selecting the tab labeled “My Home,” and clicking on the link to “Delegated MI Companies.” The list will be updated from time to time if new MIs are added or subtracted from the list.

Only short sales and deeds-in-lieu of foreclosure that are completed in accordance with Freddie Mac's requirements under the Guide are delegated. Therefore, Servicers must be even more diligent in ensuring that those requirements, which are found in Guide Chapters B65, *Workout Options*, and D65, *Home Affordable Foreclosure Alternatives*, are carefully followed. A short sale or deed-in-lieu of foreclosure that falls outside the Guide requirements will not only violate the Guide but may also violate the delegation agreement. When the Guide gives the Servicer latitude in reaching a reasonable alternative to foreclosure, the Servicer must exercise its judgment conservatively to ensure that the approved workout option is fair and prudent.

Both Freddie Mac and each MI will be closely watching performance of these short sales and deeds-in-lieu of foreclosure and auditing the mortgage files to ensure compliance. As happens today, when a claim is submitted by Freddie Mac to the MI, Servicers must quickly and accurately deliver the information requested by the MI as part of the claim process. Any claim that is curtailed or denied due to Servicer non-compliance with the Guide, the terms of the mortgage insurance policy or the Servicer's failure to provide accurate information when requested, will result in Freddie Mac exercising its remedies against the Servicer. Moreover, any Servicer that shows a repeated pattern of misusing the delegations may be barred from further use, required to submit all alternatives to foreclosure to Freddie Mac for approval or subject the Servicer to additional recourse.

Servicers are directed to take advantage of the extensive training and educational materials about alternatives to foreclosure on our Loss Mitigation web page of the Learning Center at http://www.freddiemac.com/learn/service/loss_mitigation.html. Moreover, Servicers are encouraged to contact their Servicing Account Managers as frequently as necessary with questions or concerns regarding the delegation agreements, Freddie Mac's alternatives to foreclosure and any other subjects that impact Servicers' ability to execute on these alternatives to foreclosure.

Using this delegated authority will create new efficiencies in the review and approval of alternatives to foreclosure, saving eligible Borrowers from foreclosure and reducing losses across the mortgage industry. It is critically important that Servicers use these delegations to effectively implement Freddie Mac's alternatives to foreclosure quickly, efficiently and accurately so that these benefits can be realized as soon as possible.

MORTGAGE INSURANCE CLAIM DOCUMENTATION DELIVERY

We have revised Sections 70.7, *Mortgage Insurance Claim Filing*, and B65.9, *Mortgage Insurance Claims*, to require that Servicers provide all information and documentation pertaining to the claim to the MI no later than 60 days after the foreclosure sale, short sale or acceptance of the deed-in-lieu of foreclosure, or within any shorter time frame as specified by the mortgage insurance master policy or by Freddie Mac.

ALIGNMENT OF IMMINENT DEFAULT HARDSHIP DOCUMENTATION

In Bulletin 2011-11, we aligned our income documentation requirements for all modifications offered under the Guide and reminded Servicers that there were no changes to the additional documentation requirements necessary to complete an imminent default evaluation. With this Bulletin, we are revising our requirements for documenting an Imminent Default Hardship for both HAMP modifications and Standard Modifications. Effective immediately, Servicers may rely on the documentation required in Section 65.17 when evaluating a Borrower for imminent default.

Sections 65.8, *Performance Standards*, B65.15, *Determining Imminent Default for a Freddie Mac Standard Modification*, B65.17, *Borrower Documentation*, and C65.5.2, *Determining Imminent Default*, have been updated to reflect these changes.

REIMBURSEMENTS OF EXPENSES AND PAYMENT OF INCENTIVES THROUGH THE ACH

With this Bulletin, we are providing Servicers with the option of using the ACH to receive reimbursement of eligible expenses and payment of incentives.

The use of this new reimbursement method is optional, but we strongly encourage Servicers to participate as it will eliminate the need for paper checks. Refer to new Guide Exhibit 98, *Expense Reimbursement/Incentive Payment Authorization Agreement for ACH Credits*, for instructions on submitting the agreement form and other required documentation.

We have updated Sections 64.2, *General Requirements*, 65.42, *Compensation Program*, and 71.2, *Process for Requesting Expense Reimbursement*, to reflect these changes.

RECOMMENDING A CHARGE-OFF TO FREDDIE MAC

We have revised our requirements for recommending a charge-off to Freddie Mac to:

- Limit further the types of low balance conventional Mortgages that should be recommended to Freddie Mac for charge-offs to include only those Mortgages that meet all of the following requirements: have unpaid principal balances (UPB) of \$5,000 or less, are at least 120 days delinquent and are secured by a property that is owner-occupied and for which property inspections continue to show the property maintenance to be both up to neighborhood standards and in compliance with municipal requirements
- Eliminate land value as a condition to consider when evaluating condemned properties for charge-off recommendation

Sections 59.1, *Escrow for Taxes, Ground Rents, Assessments and Other Charges*, 65.14, *Charge-Off*, B65.49, *What is a Charge-Off*, B65.50, *When a Servicer Must Recommend a Charge-Off*, 66.29, *Expenses that May Become First Liens on the Property*, 78.6, *Reporting and Remitting*, Exhibit 57, *1- to 4-Unit Property Approved Expense Amounts*, and Directory 5 have been revised to reflect these changes.

PRE-REFERRAL ACCOUNT REVIEW

We have revised Section 66.9, *Pre-Referral Account Review*, to require that as part of the pre-referral account review, a Servicer must seek Freddie Mac approval to refer a Mortgage to foreclosure if the property inspections or any other information provided to the Servicer indicates that the property securing a Freddie Mac Mortgage may pose a Risk of Property Ownership to Freddie Mac or that proceeding with foreclosure may not be in Freddie Mac's best interest.

REIMBURSEMENT OF FIRST TAX PENALTY ON A NON-ESCROWED MORTGAGE

We are revising our reimbursement requirements with respect to the reimbursement of the first tax penalty on a non-escrowed Mortgage.

Under Section 71.14, *Reimbursement of Taxes*, Freddie Mac will reimburse the Servicer for taxes the Borrower did not pay and the first tax penalty incurred on a non-escrowed Mortgage. However, Section 71.14 also states that the Servicer will not be reimbursed for any late fees, interest and penalties other than the first tax penalty on a non-escrowed Mortgage.

We have revised Section 71.14 to state that if a taxing authority considers "interest" as a penalty or as part of the penalty, Freddie Mac will reimburse the Servicer for the first assessment of the interest penalty only. Exhibit 74, *Expense and Income Codes for Expense Reimbursement Claims*, has also been revised to allow the Servicer to use expense code, 074005, "First Tax Penalty on Non-Escrowed Mortgages" when submitting a reimbursement claim request for the first tax penalty, which may include interest, via the Reimbursement System.

We have updated Section 71.14 and Exhibit 74 to reflect this change.

HOUSING AND ECONOMIC RECOVERY ACT OF 2008 (HERA)

To reaffirm our commitment to diversity and inclusion, we have revised Section 2.19, formerly *Minority-Owned And Women-Owned Business Enterprises*, now re-titled *Minority-Owned, Women-Owned and Disabled-Owned Business Enterprises*, and we have also updated Section 53.8, *Compliance with Applicable Law*, to confirm that under the provisions of the HERA, Freddie Mac must ensure that Servicers, and those with whom the Servicers do business, comply with principles of equal employment opportunity and non-discrimination in all their business activities. Servicers must provide Freddie Mac with information and appropriate certifications upon request.

We have also updated the Glossary to revise the definitions of “Minority-Owned Business Enterprise” and “Women-Owned Business Enterprise” and add a definition for “Disabled-Owned Business Enterprise” to be consistent with the HERA and the FHFA implementing regulation requirements.

We will update Form 16SF, *Annual Eligibility Certification Report*, to reflect these changes and revise the "ownership" certification in the Form 16SF in the future. We will notify Servicers when we make these updates.

FREDDIE MAC EXCLUSIONARY LIST

We have revised Section 51.3(a) to refer Servicers to Section 2.24 for all Servicer requirements relating to the Exclusionary List.

REMINDERS

Offshore accounts prohibited for Custodial Accounts

We are reminding Servicers that Section 77.8, *Opening Custodial Accounts*, provides that a financial institution at which the Servicer opens and maintains Custodial Accounts must qualify as an Eligible Depository. Servicers may not use an offshore account (even if only for overnight sweeps) to hold funds associated with Freddie Mac Mortgages because offshore accounts are not insured by the FDIC or NCUSIF as required in Section 77.9, *Depository Eligibility Requirements*.

Balloon/Reset Mortgage retirement

As announced in Bulletin 2012-19, we will no longer purchase Balloon/Reset Mortgages for Mortgages with Settlement Dates on or after January 1, 2013. With this Bulletin, we are notifying Servicers that although we will no longer purchase Balloon/Reset Mortgages, there are no changes to the requirements for Servicing Balloon/Reset Mortgages. All of the requirements in Chapter A83, *Additional Servicing Requirements for Maturing Balloon/Reset Mortgages*, will continue to apply.

ARM rate cap requirement revisions

As announced in Bulletin 2012-21, effective for Mortgages with Settlement Dates on or after July 1, 2013, all ARMs with Initial Periods less than or equal to five years must have Initial Caps and Periodic Caps that are less than or equal to 2%. As a result of the ARM changes, ARM products with caps exceeding the revised limits, including, but not limited to, 5/1 ARMs with a 5-2-5 cap structure, and all 3/6-month ARMs and 5/6-month ARMs will be retired.

With this Bulletin, we are notifying Servicers that although we are making these ARM rate cap requirement revisions and retiring certain ARM products, there are no changes to the requirements for Servicing ARMs.

REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 2, 51, 53, 59, 64, 65, B65, C65, 66, 70, 71 and 78
- Exhibits 57, 74, 83A and 98
- Directory
- 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,

A handwritten signature in cursive script that reads "Tracy Hagen Mooney".

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