

# Bulletin

---

NUMBER: 2013-6

---

TO: Freddie Mac Servicers

April 15, 2013

---

## SUBJECTS

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

- Updating the allowable amounts for attorney fees related to foreclosure, deed-in-lieu of foreclosure (DIL) and bankruptcy, and announcing changes to the reimbursement process for default-related legal service expenses
- Updating the Guide to provide new requirements for bidding at a foreclosure sale
- Updating the Guide to require that Seller/Servicers direct MIs providing coverage on Mortgages sold to and/or serviced for Freddie Mac to release data to Freddie Mac at Freddie Mac’s request by executing new Guide Form 1207, *Freddie Mac Mortgage Insurance Information Disclosure Agreement*
- Reminding Servicers of the reporting activities they must undertake after extending Trial Periods for Borrowers who subsequently file for bankruptcy during the Trial Period Plan and providing requirements on reporting the optional interim month
- Revising Freddie Mac Servicing Success Program requirements related to Servicer Success File Reviews and the Servicer Performance Profile
- Updating the Guide to reflect the retirement of the Freddie Mac Home Affordable Foreclosure Alternatives (HAFA) initiative
- Announcing revised Forms 16SF, *Annual Eligibility Certification Report*, and 1107SF, *Seller/Servicer Change Notification*, that reflect definition changes announced in Bulletin 2012-23 and collection of additional Seller/Servicer ownership information
- Amending Guide Exhibit 83A, *Determining State Foreclosure Time Line Performance Compensatory Fees*, to provide information on how to access the Foreclosure Time Line Compensatory Fees Reference Guide, an additional resource provided by Freddie Mac
- Updating Directory 5 to consolidate and revise certain e-mail addresses used by Servicers to send information to Freddie Mac

## EFFECTIVE DATE

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

## DEFAULT-RELATED LEGAL SERVICES

### Effective June 1, 2013, unless otherwise noted

As a follow up to Bulletin 2012-25, Freddie Mac is updating the allowable amounts for attorney fees related to foreclosure, DIL and bankruptcy, and announcing changes to the reimbursement process due to the new requirements of Guide Chapter 69, *Selection, Retention, and Management of Law Firms for Freddie Mac Default Legal Matters*, which also go into effect on **June 1, 2013**.

## Attorney fee reimbursement limits

Freddie Mac is updating the maximum allowable amounts it will reimburse Servicers for attorney fees related to foreclosure and DIL in certain jurisdictions.

Additionally, for bankruptcy fees, Freddie Mac is updating the current structure from a baseline attorney fee model to a “Menu Billing” fee model nationwide. “Menu Billing” allows firms to be paid when they have achieved certain milestones during the bankruptcy proceeding.

Exhibit 57A, *Approved Attorney Fees and Title Expenses*, which sets forth the maximum allowable amounts Freddie Mac will reimburse Servicers for attorney fees related to foreclosure, DIL and bankruptcy, has been updated to reflect revisions to the maximum allowable amounts effective for all reimbursement claims submitted **on or after June 1, 2013**.

As a reminder, Servicers must ensure that attorney fees and costs incurred are reasonable and customary for the area in which the property is located. If amounts exceed current expense limits in Exhibit 57A, Servicers must continue to request Freddie Mac’s approval prior to incurring the expense.

## Changes to the reimbursement process

Freddie Mac is also announcing changes to the Reimbursement System to align with the requirements of Chapter 69. These changes will support and enhance new or existing processes, and retire expiring processes.

Specifically, changes to the Reimbursement System include:

- Retiring the 104DC claims process and its associated expense codes
  - All Reimbursement System users for designated counsel firms will not be permitted to login using their login/credentials
- Creating new and revising existing 104SF expense codes for “Bankruptcy,” “Foreclosure” or “Other Legal” action categories to:
  - Align with the expiring expense codes applicable to 104DC claims
  - More accurately track default-related expenses
  - Allow the Servicer to select whether the attorney fees paid to law firms handling default-related legal matters on Freddie Mac-owned or guaranteed Mortgages were for non-judicial or judicial foreclosure types
- Modifying 104SF claims and batch templates to accommodate additional/new fields. In a future communication, Freddie Mac plans to provide further guidance on the updated fields on the associated 104SF claims and batch templates.
  - To track expense reimbursements paid to Servicers for use of particular law firms handling default-related legal matters on Freddie Mac-owned or guaranteed Mortgages, Servicers will be required to select the law firm when choosing expense codes associated with “Bankruptcy,” “Foreclosure” or “Other Legal” actions.
  - To ensure Servicers are following Guide requirements with regards to default-related legal matters, when selecting “Bankruptcy” expense codes, Servicers will be required to indicate whether the bankruptcy filing was filed in a different jurisdiction than where the property is located
  - For batch templates, new fields are being added to accommodate the tracking of expense reimbursements and to indicate if the bankruptcy filing was in a different jurisdiction than where the property is located

Exhibit 74, *Expense and Income Codes for Expense Reimbursement Claims*, has been updated to reflect the revised expense codes.

Sections 66.15.2, *Foreclosure Counsel Fees*, 67.10, *Managing New Bankruptcy Filings*, and 71.19, *Reimbursement of Fees and Costs Incurred during Legal Proceedings*, and Exhibits 57, *1- to 4-Unit Property Approved Expense Amounts*, and 59, *City of Chicago Illinois Vacant Property Ordinance Expense Codes*, have also been updated to reflect the changes to the Reimbursement System.

### ***Important considerations for timely claim submissions***

The Reimbursement System will continue to process all 104DC claims created and submitted to Freddie Mac **prior to June 1, 2013**. All claims that are submitted on or after June 1, 2013, including Servicer reimbursement claims for fees paid to designated counsel firms, must be submitted using the expense codes on the 104SF claim. Therefore, Servicers should prepare for this transition and are strongly encouraged to submit all 104DC claims to Freddie Mac prior to June 1, 2013 for foreclosure actions resolved prior to June 1, 2013. **All claims submitted on or after June 1, 2013, regardless of when the foreclosure action was resolved, must be submitted through a 104SF claim.**

All existing requests for pre-approval (RPA) of expenses for Mortgages in the designated counsel program for which the expense has not yet been submitted will be mapped over to the new 104SF claim expense codes on June 1, 2013, and will be paid when the associated 104SF claim is submitted following the foreclosure action being resolved. All RPA requests submitted by designated counsel firms that are not processed by Freddie Mac by June 1, 2013 will not be processed; Servicers will instead be required to re-submit the RPA requests using the new 104SF claim expense codes. All future requests for over-allowable attorney fees and costs, or RPA submissions for other over-allowable approvals that would otherwise have been handled by designated counsel firms, must be requested by the Servicer through the current RPA process in the Reimbursement System.

### ***Outstanding claims for attorney fees and costs paid to the Law Offices of Marshall Watson, P.A.***

In March 2011 Freddie Mac and the Law Offices of Marshall Watson, P.A. (“Watson”) agreed that the law firm would end its participation in the designated counsel program. Subsequently, Freddie Mac announced invoicing and billing procedures for Servicers to follow for appropriate reimbursement. As a result of the 104DC claim process being retired, all 104DC claims submitted to Servicers by Watson must be submitted to Freddie Mac before June 1, 2013. These 104DC claims for expense reimbursement will be processed and paid as provided in Section 71.13, *Claim Submission Types and Time Frames*.

### ***Use of Reimbursement System by permitted vendors***

Servicers have administrative rights to delegate or assign vendors to submit claims on their behalf, as provided in Section 71.8, *Use of Reimbursement System by Permitted Vendors*. **Effective immediately**, Servicers may use this administrative right to permit vendors to submit 104SF claims and RPAs on their behalf.

As a reminder, for any permitted vendor, Servicers must maintain a completed and signed Exhibit 92, *Reimbursement System User Agreement – Permitted Vendor*, and make it available to Freddie Mac upon request.

### **Foreclosure sale bidding**

#### ***Reminder for Freddie Mac Default Legal Matters referred to designated counsel prior to June 1, 2013***

Designated counsel will no longer obtain a property valuation from Freddie Mac through BPOdirect® to process foreclosures and related litigation for Freddie Mac Default Legal Matters referred to designated counsel prior to June 1, 2013 (“Legacy Matters”). Further, law firms handling Freddie Mac Default Legal Matters will no longer determine the beginning bid and final bid at a foreclosure sale.

#### ***Foreclosure sale bidding for foreclosure sales on or after June 1, 2013***

We are updating the Guide to provide Servicers with new requirements for foreclosure sale bidding on First Lien Mortgages not covered by mortgage insurance for foreclosure sales conducted on or after **June 1, 2013**.

Sections 65.38, *When to Obtain a Property Value*, 66.39, *When to Obtain a Valuation for Foreclosure Sale Bidding*, 66.42, *Delegated Bidding*, and 66.43, *First Lien Mortgages Not Covered by Mortgage Insurance*, have been updated to reflect these new requirements, which are based on both property value and location of the Mortgaged Premises.

#### **Exhibit 79, Designated Counsel/Trustee**

In conjunction with the new requirements provided in Chapter 69, we are retiring Exhibit 79, *Designated Counsel/Trustee*, and removing it from [FreddieMac.com](http://FreddieMac.com), effective **June 1, 2013**.

### **SELLER/SERVICER AND MORTGAGE INSURANCE COMPANY INFORMATION DISCLOSURE REQUIREMENTS**

#### **Effective July 31, 2013**

Freddie Mac, at times, may need to verify directly with MIs the presence and nature of mortgage insurance coverage on Mortgages sold to and serviced for Freddie Mac. In order to expedite this verification process and facilitate the completion of other day-to-day activities, Freddie Mac is updating the Guide to require that its Seller/Servicers direct MIs in writing to release data to Freddie Mac at Freddie Mac's request. Seller/Servicers must instruct each MI that currently provides, or that in the future may provide, coverage on Mortgages it sold to and/or services for Freddie Mac to comply with any Freddie Mac request for information, data and materials relating to Freddie Mac Mortgages.

To comply with this requirement, a Seller/Servicer must provide written instructions to each applicable MI using Form 1207. Seller/Servicers must deliver a fully executed copy of the information disclosure agreement for each applicable MI to Freddie Mac at [MI\\_Questions@FreddieMac.com](mailto:MI_Questions@FreddieMac.com) by **July 31, 2013** or before the MI begins providing insurance covering Mortgages, whichever is later.

Servicers should implement the new form and disclosure requirements as soon as possible in order to ensure that the fully executed Form 1207 for each applicable MI is delivered to Freddie Mac by July 31, 2013.

Section 61.9, *Requirement to Direct MI Disclosure of Mortgage Information to Freddie Mac*, has been added to reflect this requirement.

#### **Continued Servicer responsibilities**

It is possible that with this change, Freddie Mac, through its interaction with the MI, may acquire information generally provided to Freddie Mac by the Seller/Servicer. Our receipt of such information, or our ability to receive such information, from the MI does not exempt the Seller/Servicer from complying with any reporting or disclosure requirements specified by the Guide or other Purchase Documents.

### **TRIAL PERIOD PLANS**

#### **Interim month reporting**

We are updating the Guide to provide Servicers with requirements for reporting the optional interim month during a Trial Period Plan via Electronic Default Reporting (EDR). These requirements apply to Home Affordable Modification Program (HAMP), Freddie Mac Standard Modification ("Standard Modification") and Freddie Mac Streamlined Modification ("Streamlined Modification") Trial Period Plans.

Per the existing Guide requirements, Servicers may, at their option, elect to use the interim month in the event that a Borrower does not pay the final Trial Period payment on or before the due date set forth in a Trial Period Plan Notice. When Servicers elect to use this option, they must prepare the modification agreement such that the Modification Effective Date and the first modified payment due date is the first day of the second month following the final Trial Period month.

Servicers are required to report the appropriate EDR default action and default reason codes during the Trial Period and the optional interim month in the manner required by the Guide and/or the Servicer's other Purchase Documents. When reporting the optional interim month, Servicers must report default reason code "HMP" with default action code "09" for a HAMP modification, default action code "BF" for a Standard Modification, and default action code "TM" for a Streamlined Modification. The Servicer must also report the Trial Period Plan Effective Date as the default action date until the code would no longer apply once the Mortgage is modified.

Sections B65.21, *Other Conditions and Requirements*, B65.24, *Preparing to Close the Loan Modification*, C65.7, *Modification Process*, and C65.11, *HAMP Activity Reporting Requirements*, and Exhibit 82, *Electronic Default Reporting Transmission Code List*, have been updated to reflect these requirements.

### **Bankruptcy during the Trial Period**

In addition, Servicers are reminded that Borrowers who are in a HAMP modification, Standard Modification or Streamlined Modification Trial Period Plan and subsequently file for bankruptcy may not be denied a modification on the basis of the bankruptcy filing. Servicers should extend the Trial Period Plan as necessary to accommodate any delays in obtaining court approval or receiving a full remittance of the Borrower's Trial Period payments when they are made to a trustee, but the Trial Period must not be extended beyond two months, resulting in a total five-month Trial Period. Borrowers must make a Trial Period payment for each month of the Trial Period, including any extension month(s), in order to remain eligible for a HAMP modification, Standard Modification or a Streamlined Modification.

During the extended Trial Period, Servicers must continue to report default reason code "HMP" with default action code "09" for a HAMP modification, the default action code "BF" for a Standard Modification, and the default action code "TM" for a Streamlined Modification, via EDR.

Refer to Sections B65.19(b), *Requirements during the Trial Period*, and C65.7.1(b), *Borrowers in Bankruptcy*, for more information on requirements for bankruptcy during the Trial Period.

## **SERVICING SUCCESS PROGRAM CHANGES**

### **Servicer Success File Review documentation**

To provide general consistency with other file request time lines, we have increased the time frame for Freddie Mac's receipt of the requested Servicer Success File Review documentation from 10 calendar days to 30 calendar days from the date of the letter requesting the documentation, or such other time frame Freddie Mac specifies in the request.

We have amended the Guide to clarify that any response or appeal to the File Review findings must be predicated on previously submitted documentation. Freddie Mac will not accept any documentation with the appeal that the Servicer failed to submit in response to the File Review request.

Servicing violations that are identified during a File Review will be managed in accordance with the Guide, and as described in Bulletin 2012-20. Servicers should review that Bulletin for information related to curing a violation, repurchase of a Mortgage and repurchase alternatives, and appealing a repurchase or repurchase alternative.

Section 51.9.1, *Freddie Mac Servicer Success File Reviews*, has been updated to reflect these changes.

### **Changes to process for receipt of the Executive Summary Report (ESR) in the Servicer Performance Profile**

In Bulletin 2011-20 Freddie Mac announced that Servicers may receive an ESR that contains aggregated global family performance data. The "global family" includes affiliates of a Servicer controlled by a common parent entity and that parent itself.

Freddie Mac will now provide aggregated global family performance data and ESRs to **all** Servicers on May 7, 2013 **unless** a Servicer notifies Freddie Mac that it does not wish to receive access to global family performance data in the Global Family Scorecard and the ESR.

### ***Deadline to notify Freddie Mac***

If a Servicer does not wish to receive access to the global family performance data in the Global Family Scorecard and the ESR, an officer or individual with appropriate corporate authority must provide a written request to the Servicer's Freddie Mac representative. **If one Servicer in a global family opts out of receipt of the global family performance data, then the ESR and Global Family Scorecard will not be available to that Servicer or any other members of that Servicer's global family.**

Servicers must submit the written request to their Freddie Mac representative **no later than close of business on April 30, 2013** if they do not wish to receive access to the global family performance data and ESR with the initial release date on May 7, 2013. If in the future, a Servicer would like to amend its access (i.e., to obtain access or opt out of access, as applicable) to global family performance data and the ESR, a Servicer may provide a written request to their Freddie Mac representative. At least seven Business Days are required to process the request. Note: If a new servicer family is added to the global family in the future, such servicer family's data will be included with the Global Family Scorecard and ESR unless Freddie Mac is notified otherwise.

### **HOME AFFORDABLE FORECLOSURE ALTERNATIVES (HAFA) RETIREMENT**

As previously announced in Bulletins 2012-16 and 2013-3, Borrowers must have submitted a fully executed HAFA Short Sale Agreement or HAFA DIL Agreement to the Servicer no later than December 31, 2012 to be eligible for HAFA. With this Bulletin we are providing the additional requirement that any HAFA Short Sale or HAFA DIL must close by **August 31, 2013**.

No later than **August 31, 2013**, Servicers must:

- Complete and report all HAFA-approved transactions to Freddie Mac in accordance with Guide requirements
- Provide any required reporting of HAFA transactions to the Making Home Affordable Program Administrator

We are retaining the HAFA requirements in the Guide through August 31, 2013 so that Servicers may reference the necessary Guide requirements to facilitate settlement of their approved HAFA Mortgages.

All applicable Guide sections and exhibits will be updated effective **September 1, 2013** to reflect the retirement of HAFA.

In addition, all HAFA forms and other HAFA information posted on [Freddiemac.com](http://Freddiemac.com) will be retired.

### **UPDATES TO FORMS 16SF AND 1107SF**

In Bulletin 2012-23 Freddie Mac reaffirmed its commitment to diversity and inclusion by updating the Glossary to reflect definitions of "Minority-Owned Business Enterprise" and "Women-Owned Business Enterprise" and to add a definition for "Disabled-Owned Business Enterprise" consistent with the Housing and Economic Recovery Act of 2008 (HERA) and the Federal Housing Finance Agency (FHFA) implementing regulation requirements.

With this Bulletin we are notifying Servicers that we have updated Forms 16SF and 1107SF to reflect these revised/new definitions and also to add two additional diversity categories relating to Seller/Servicer ownership information that Freddie Mac will collect going forward.

### **FORECLOSURE TIME LINE COMPENSATORY FEES REFERENCE GUIDE**

Freddie Mac provides additional guidance on State foreclosure time line compensatory fees in a reference guide that is available on [Freddiemac.com](http://Freddiemac.com) at the Learning Center. We are amending Exhibit 83A to provide information to Servicers on how to access the Foreclosure Time Line Compensatory Fees Reference Guide.

This resource provides Servicers with a tool that:

- Explains how Freddie Mac evaluates Servicer foreclosure time line performance
- Provides a review of the Compensatory Fee Analysis Reports that are available
- Outlines the different types of foreclosure time line compensatory fees
- Explains the appeal process
- Identifies delays that Freddie Mac typically may or may not consider when submitting appeals

Servicers are reminded that this resource does not replace the requirements of the Guide or a Servicer's other Purchase Documents, and should only be used as a tool to better service Freddie Mac-owned or guaranteed Mortgages.

## **DIRECTORY UPDATES**

We have updated Directory 5 to consolidate and revise certain e-mail addresses used by Servicers to send information to Freddie Mac.

The following sections are affected by the Freddie Mac e-mail address revisions made to the Directory:

- 60.1, *General Policy*
- 64.8, *Rental Property*
- A65.28, *Extended Unemployment Forbearance*
- B65.53, *Closing, Reporting and Remittance Requirements*
- 66.48, *States Where Preserving Deficiency Rights is Optional*
- 66.49, *Abandonment*
- 66.50, *Special Circumstances Requiring Freddie Mac's Approval*
- 66.52.1, *Assigning Deficiency Rights After the Foreclosure Sale*

## **REVISIONS TO THE GUIDE**

The revisions included in this Bulletin impact the following:

- Chapters 7, 50, 51, 57, 61, 64, 65, B65, C65, D65, 66, 67, 71, 73, 78, 79, 82 and A83
- Forms 16SF, 59E, 1107SF and 1207
- Exhibits 57, 57A, 59, 74, 79, 82, 83A, 92 and 96
- 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