

Bulletin

NUMBER: 2013-21

TO: Freddie Mac Servicers

October 11, 2013

SUBJECT: UPDATES IN RESPONSE TO THE CFPB MORTGAGE SERVICING FINAL RULE

This *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin updates certain **Servicing** requirements in response to the Consumer Financial Protection Bureau (CFPB) final rules implementing the Mortgage Servicing provisions of the Real Estate Settlement Procedures Act and the Truth-in-Lending Act, as amended by Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (collectively, the “Mortgage Servicing final rule”). The updated Servicing requirements relate to:

- Early intervention and communication with delinquent Borrowers
- Alternatives to foreclosure and right of appeals
- Foreclosure referral and foreclosure suspension
- Error resolution

Certain updates are specific only to Mortgages secured by Primary Residences and Mortgages subject to a new right of appeals process, while other updates apply to all Mortgages, regardless of occupancy type. Servicers are encouraged to review all applicable revised Guide sections in their entirety to ensure compliance with the changes announced in this Bulletin.

EFFECTIVE DATE

All of the changes announced in this Bulletin are effective for Servicing activities completed on or after **January 10, 2014**.

BACKGROUND

The CFPB issued the Mortgage Servicing final rule, which generally requires Servicers to establish policies and procedures regarding the designation of personnel to contact Borrowers who fall behind on their Mortgage payments and to work with those Borrowers on available loss mitigation options.

At the direction of the Federal Housing Finance Agency (FHFA), Freddie Mac and Fannie Mae have worked together in an effort to align Servicing requirements being updated in response to the Mortgage Servicing final rule.

SERVICING REQUIREMENTS FOR DELINQUENT MORTGAGES THAT ARE SECURED BY PRIMARY RESIDENCES

We have added new Guide Chapter 63, *Delinquency Management for Mortgages Secured by Primary Residences*, to provide Servicing requirements applicable only to Mortgages secured by Primary Residences, including requirements relating to a new appeals process for such Mortgages when the First Complete Borrower Response Package is received on or after January 10, 2014. Chapter 63 also provides requirements relating to collection efforts, Borrower communications and foreclosure postponement.

In addition, we are providing revised model clauses in Guide Exhibit 93, *Evaluation Model Clauses*, which complement the changes required for Borrower communication under the new appeals process.

New and updated Servicing requirements in Chapter 63 include the following:

- Evaluation and communication requirements for the Borrower right of appeal. The new requirements provide that a Borrower may appeal the denial of a Trial Period Plan based on the evaluation of the First Complete Borrower Response Package that was submitted 90 or more days before a scheduled foreclosure sale date or prior to a foreclosure sale date being scheduled. Refer to Guide Section 63.3, *Evaluation Requirements and Appeals Process in Response to the First Complete Borrower Response Package*, for these requirements and Exhibit 93 for updated evaluation model clauses.
- Revised foreclosure referral requirements. As updated, the requirements provide that Mortgages secured by Primary Residences must be referred to foreclosure no earlier than 151 days from the Due Date of Last Paid Installment (DDLPI) (121st day of Delinquency) and no later than five Business Days after the 121st day of Delinquency, unless applicable law or one of the exceptions set forth in Section 66.9.1, *When to Refer a Mortgage to Foreclosure*, permits earlier referral. For these Mortgages, the Servicer may no longer refer to foreclosure or take the first legal action in the foreclosure process any earlier than the 121st day of Delinquency unless applicable law or one of the exceptions set forth in Section 66.9.1 permits earlier referral. If the Servicer determines that the Mortgaged Premises securing a Mortgage is no longer the Borrower's Primary Residence (e.g., abandoned, serving as a second home or an investment property, etc.), the Servicer must refer the Mortgage to foreclosure once the breach letter has expired. Refer to Sections 63.2, *Collection Efforts*, and 66.9.1.
- New foreclosure suspension obligations with respect to the First Complete Borrower Response Package. If a First Complete Borrower Response Package is received more than 37 days prior to a scheduled foreclosure sale date or prior to a foreclosure sale date being scheduled, Servicers must delay taking the first legal action, or if the first legal action has been taken, they must delay motion for judgment or order of sale unless certain conditions apply. Refer to Sections 63.4, *Foreclosure Suspension Obligations Once the First Complete Borrower Response Package is Received*, and 66.41, *Complete Borrower Response Packages Received after Referral to Foreclosure*, for comprehensive requirements. However, existing foreclosure suspension requirements set forth in Section 66.41 still apply to Mortgages that are not secured by Primary Residences as well as Mortgages secured by Primary Residences with a complete Borrower Response Package submitted after the First Complete Borrower Response Package.

SERVICING REQUIREMENTS FOR ALL MORTGAGES

New requirements applicable to all Mortgages include the following:

- Elimination of the use of a loss mitigation tool for the purpose of delaying the initial Borrower Solicitation Package required to be sent by the 35th day of Delinquency. Servicers are now required to send an initial Borrower Solicitation Package as early as the 31st day and no later than the 35th day of Delinquency. Servicers may continue to use a loss mitigation tool for purposes of managing calling campaigns. Refer to Sections 63.2 and 64.5, *Collection Efforts*.
- Servicers must acknowledge in writing to the Borrower receipt of the Borrower Response Package within five Business Days of its receipt. Servicers must also provide any other disclosure with the acknowledgement as required under applicable law. Refer to Section 64.6(d), *Communications with the Borrower*.

- Replacement of our current case escalation requirements with error resolution requirements applicable to any Servicing error asserted by a Borrower. Refer to Section 51.5.1, *Error Resolution Procedures*.
- Revision to disaster-related forbearance plan requirements to provide that a complete Borrower Response Package must be obtained when the Borrower is being considered for and offered a forbearance plan exceeding six months in length. If a Borrower is unable to provide a complete Borrower Response Package at the end of the initial six months of disaster-related forbearance, the Servicer may offer a successive disaster-related forbearance plan up to six months in length, but not to exceed 12 months of disaster-related forbearance in aggregate. Refer to Section 68.4, *Delinquency Management Activities*.

ADDITIONAL SERVICING REQUIREMENT REVISIONS

Pre-foreclosure referral requirements

We are revising our pre-foreclosure referral review requirements to provide that Servicers may complete their pre-referral review within 15 days prior to foreclosure referral. Servicers were previously required to complete this review no later than seven days prior to the foreclosure referral. We are revising this requirement in Section 66.9, *Pre-Referral Account Review*, to grant additional time for a Servicer to verify that it made every attempt to achieve quality right party contact in accordance with Section 64.4, *Establishing Borrower Contact*, and that the Borrower response period has expired for any approved payment arrangement or pending alternative to foreclosure offer.

In addition, we are eliminating the requirement in Section 66.9.1 that Servicers postpone foreclosure referral for up to 10 days if a substantially complete Borrower Response Package is received.

Long-term forbearance requirements

We are revising our long-term forbearance requirements to redefine the period of time that constitutes long-term forbearance as provided in Section A65.22, *What is Long-Term Forbearance*. Currently, long-term forbearance is described as reduced or suspended monthly payments for a period of four to 12 months from the date of the agreement between the Servicer and Borrower (or estate). We are revising this period to six to 12 months from the date of the written agreement. Section A65.22 has been updated to reflect this change.

COMPLIANCE WITH APPLICABLE LAWS

Although Freddie Mac has revised its Servicing requirements in response to the Mortgage Servicing final rule, a Servicer should not assume that compliance with Freddie Mac Servicing requirements will ensure that the Servicer is in compliance with the Mortgage Servicing final rule. Servicers are reminded that under Section 53.8, *Compliance with Applicable Law*, they are required to comply with all applicable federal, State and local laws, including, without limitation and as amended, the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act (ECOA) and the Truth-in-Lending Act, and their implementing regulations.

REMINDER: BULLETIN 2013-20

Servicers should review Bulletin 2013-20 for updates to our requirements in response to the CFPB's final rule on the disclosure of copies of appraisals and other written valuations under ECOA. This final rule revises Regulation B to require creditors to proactively provide applicants for credit with free copies of all appraisals and other written valuations developed in connection with an application for credit. In Bulletin 2013-20, we added a requirement for Servicers to provide notices and copies of appraisals and other written valuations on behalf of Freddie Mac, when Freddie Mac may be acting as a co-creditor in a transaction subject to ECOA (e.g., exception requests for a modification).

ADDITIONAL RESOURCES AND TRAINING MATERIALS

Additional resources related to the updated requirements referenced in this Bulletin can be found at the [Freddie Mac New Mortgage Servicing Requirements](#) web page.

To help Servicers understand the new and revised requirements announced in this Bulletin, we encourage registration in the [Bulletins 2013-20 & 2013-21: Servicing Updates in Response to the CFPB's Mortgage Servicing Rules](#) webinar.

Servicers are also encouraged to visit [Freddie Mac's Learning Center](#) to view updated training materials supporting the changes announced in this Bulletin.

REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 51, 63, 64, A65, 66 and 68
- Exhibit 93
- Directory 5
- Glossary

For a detailed list of the Guide updates associated with this Bulletin and the topics with which they correspond, refer to the Bulletin 2013-21 (Updates in Response to the CFPB Mortgage Servicing Final Rule) Guide Updates Spreadsheet available at <http://www.freddiemac.com/sell/guide/spreadsheets.html>.

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