



**TO: Freddie Mac Servicers**

June 3, 2014

2014-10

## **SUBJECT: SERVICING UPDATES**

This *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin updates and revises the following:

- Certain requirements for Freddie Mac Standard Short Sales (“short sales”) and Standard Deeds-in-Lieu of Foreclosure (“DILs”)
- Certain requirements announced in Bulletin 2013-21 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 the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (collectively, the “Mortgage Servicing final rule”)
- Certain unemployment forbearance requirements
- Guide Exhibit 93, *Evaluation Model Clauses*
- Acceptable Borrower documentation for the hardship “Distant Employment Transfer/Relocation”
- Eligibility for a simultaneous assumption and modification to include the Home Affordable Mortgage Program (HAMP) as an additional modification option

## **SHORT SALES AND DEEDS-IN-LIEU OF FORECLOSURE**

Unless otherwise noted, the changes below are effective for new short sale and DIL evaluations conducted on and after **August 1, 2014**. However, Servicers may implement these changes earlier if they are operationally able to do so.

### **Eligibility for service members with Permanent Change of Station (PCS) orders**

We are expanding short sale and DIL eligibility to permit a service member to qualify for a short sale or DIL provided the Mortgaged Premises is or was previously the Borrower’s Primary Residence. This change assists service members who may have moved to a new Primary Residence as a result of having received PCS orders and later decided to sell the former residence. In order to be eligible, the service member must have purchased the Mortgaged Premises on or before June 30, 2012.

When a short sale or DIL is approved for a service member as provided above, the service member will receive the existing benefits afforded to a service member with PCS orders: exemption from making a Borrower contribution and exemption from the requirement that the Borrower’s current monthly debt payment-to-income ratio must be greater than 55% if the Borrower is current or less than 31 days delinquent.

Guide Sections B65.36, *Short Sale Eligibility Requirements and Servicer Approval Authority*, B65.37, *Borrower Documentation*, B65.37.1, *Borrower Contributions and Relocation Assistance*, B65.43, *Deed-in-Lieu of Foreclosure Eligibility Requirements and Servicer Approval Authority*, B65.44, *Borrower Documentation*, and B65.44.1, *Borrower Contributions and Relocation Assistance*, have been updated to reflect these changes.

### **Borrower ineligibility due to a new Mortgage**

We are revising our requirement regarding the period of time during which a Borrower seeking a short sale or DIL must not have obtained a new Mortgage. Under the revised requirement, the Servicer must review the Borrower’s credit report to determine that the Borrower did not obtain a new Mortgage in the six months preceding the Borrower’s Delinquency or, in the case of a Borrower who is current, in the six months preceding the evaluation of the Borrower for a short sale or DIL. If the Borrower obtained a new Mortgage during that time and the Borrower’s hardship was other than distant employment transfer, the Borrower is not

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eligible for a short sale or DIL. We are implementing this new lookback period as data indicates a correlation between a Borrower obtaining a new Mortgage and subsequent default on an existing Mortgage.

In a related change, Servicers are now required to investigate any inquiries by mortgage creditors that appear on the Borrower's credit report as it may take a new Mortgage several months to appear on the Borrower's credit report.

If the Servicer's review of the credit report indicates that a mortgage creditor has made an inquiry within the previous four-month period, the Servicer must contact the Borrower to determine:

- The address of the property to which the inquiry pertained,
- The purpose of the inquiry (e.g., refinance or purchase Mortgage) and
- The result of the inquiry (e.g., refinance or purchase Mortgage is pending, closed or canceled)

If the Servicer determines that a new Mortgage was obtained for the purchase of another property, then the Servicer is not delegated to approve the short sale and the file must be sent to Freddie Mac.

Sections B65.36, B65.37, B65.43 and B65.44 have been updated to reflect these changes.

### **Borrower contribution requirements**

The Guide requires that for a short sale and DIL, the Servicer (i) conduct Borrower contribution evaluations using the Borrower's Cash Reserves and the Borrower's Promissory Note Payment Capacity formulae provided in the Guide and (ii) determine subjectively if the Borrower has the capacity to make a cash and/or promissory note contribution.

Effective August 1, 2014, we will require the Servicer to rely solely upon the results of the Cash Reserves and Promissory Note Payment Capacity formulae to determine when to request a Borrower contribution from a Borrower who is 31 days or more delinquent, thereby removing subjectivity from the process. In terms of a cash contribution, the Servicer will make an initial request for a cash contribution of 20% of the Borrower's Cash Reserves when the Borrower's Cash Reserves exceed the greater of \$10,000 or six times the Borrower's total monthly payment on the Mortgage (as defined in Sections B65.37.1 and B65.44.1). In determining a promissory note contribution, the Servicer must request the promissory note amount calculated using the Borrower's Promissory Note Payment Capacity formula. If the Borrower indicates financial circumstances that limit the Borrower's ability to meet the cash and/or promissory note contribution requested, then the Servicer may accept a lower level of contribution. In this event, the Servicer must document the specifics of the Borrower's financial limitations in the Mortgage file.

We are also adding a requirement that if a Borrower is unwilling to make a contribution that the Servicer deems acceptable based on the Borrower's financial situation, then the short sale or DIL must be submitted to Freddie Mac for approval.

Our requirements for determining a cash contribution from a Borrower who is current or less than 31 days delinquent remain unchanged. A Borrower who is current or less than 31 days delinquent is required to contribute 20% of his or her Cash Reserves unless the Borrower's financial hardship is due to the death of a Borrower or death of either the primary or secondary wage earner in the household. The Servicer must continue to submit to Freddie Mac any short sale or DIL request for a Borrower who is current or less than 31 days delinquent and cannot or will not contribute 20% of his or her Cash Reserves (with the exception of the financial hardship of death of a Borrower or death of either the primary or secondary wage earner in the household).

Currently, there is no minimum requirement for cash contributions from the Borrower. Effective August 1, 2014, we are establishing a minimum cash contribution amount of \$500. If, after requesting the initial contribution amount, the Servicer determines the Borrower is unable to contribute at least \$500 towards the deficiency, then the Servicer must not collect a cash contribution.

Sections B65.37.1 and B65.44.1 have been revised to reflect these changes.

### **Borrower communication**

Sections B65.39, *Communication Time Lines*, and B65.46, *Borrower Communication and Execution Time Lines*, require the Servicer to maintain either in the Mortgage file or in the Servicer's servicing systems documentation of all communications **to the Borrower**, whether verbal or written, including status updates.

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This Bulletin expands the requirement in Sections B65.39 and B65.46 to provide that Servicers must also maintain documentation of all communication **from the Borrower**, whether verbal or written, when a Borrower has communicated an acceptance of a short sale or DIL offer, either in the Mortgage file or in the Servicer's servicing systems. In addition, the Servicer must provide the information to Freddie Mac for review upon request.

### **Eligibility for Borrower relocation assistance**

We have updated eligibility for Borrower relocation assistance to provide that if the Cash Reserves and/or Promissory Note Payment Capacity formulae indicate that the Borrower has the means to make a contribution, the Borrower is not eligible for relocation assistance, regardless of whether the Borrower ultimately makes a contribution. If the formulae indicate that the Borrower has the means to make a contribution, but the Servicer still thinks the Borrower should receive the relocation assistance, the Servicer may send the file to Freddie Mac for review.

Sections B65.37.1 and B65.44.1 have been updated to reflect this change.

### **Payments to subordinate mortgage lien holders**

We have updated Sections B65.40, *Short Sale Transaction and Processing Requirements*, and B65.47, *Deed-in-Lieu of Foreclosure Transaction and Processing Requirements*, for subordinate lien payments to restrict those payments to subordinate Mortgages only. Any subordinate lien that is not a Mortgage, deed of trust or security deed, such as a mechanic's lien, is not eligible for the subordinate mortgage payment.

### **Mortgage debt discharged in a Chapter 7 Bankruptcy**

In Bulletin 2013-24, we revised eligibility requirements to allow a Borrower who is 90 days or more delinquent and whose mortgage debt has been discharged in a Chapter 7 Bankruptcy to be eligible for a Freddie Mac Streamlined Short Sale or a Streamlined DIL. We have updated Sections B65.37 and B65.44 to specify that the Servicer must retain a copy of the order and accompanying documents showing that the debt was discharged in a Chapter 7 Bankruptcy in the Mortgage file.

### **Use of Workout Prospector® for DILs**

#### **Effective immediately**

The Guide currently requires Servicers to submit short sale transactions to Freddie Mac via Workout Prospector. However, Bulletin 2012-27, which introduced requirements for the Standard Deed-in-Lieu of Foreclosure, did not address the mandatory use of Workout Prospector for DIL transactions. This Bulletin updates the Guide to reflect that Servicers must also submit DIL transactions through Workout Prospector. In addition, Servicers must report the DIL transaction to Freddie Mac via the Freddie Mac Service Loans application within one Business Day of receiving the executed deed.

We have updated Section B65.47 to reflect this system requirement.

### **Exhibit 97, *Short Sale Affidavit***

We have updated Exhibit 97, *Short Sale Affidavit*, to require the listing agent to attest that all purchase offers were presented to the Borrower and that no offers have been held, concealed or delayed due to action or inaction by a real estate agent.

Section B65.40 has also been updated to reflect this change.

### **Borrower prohibited from acting as listing agent on short sale**

To deter potential conflicts of interest, we are updating Section B65.36 to prohibit the Borrower from acting as the listing agent or selling a property without a licensed real estate professional.

### **Effective date for re-sale deed restriction provision**

We have updated Section B65.40(i) to clarify that the re-sale deed restriction provision takes effect on the date of the short sale closing, regardless of when the deed is recorded.

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## REQUIREMENTS IN RESPONSE TO THE CFPB MORTGAGE SERVICING FINAL RULE

### Effective August 1, 2014

In Bulletin 2013-21, we introduced requirements in response to the CFPB Mortgage Servicing final rule. Certain requirements were specific only to Mortgages secured by Primary Residences while other changes applied to all Mortgages, regardless of occupancy type. In response to suggestions Freddie Mac and Fannie Mae have received from Servicers, we are announcing revisions to the following requirements.

### **Trial Period payment adjustments after Borrower exercises right to appeal**

Currently, Section 63.3, *Evaluation Requirements and Appeals Process in Response to the First Complete Borrower Response Package*, provides that if the Borrower accepts the original Trial Period Plan offer after receiving the appeal decision and remains eligible for such offer, the Servicer may, but is not required to, revise the Trial Period payment amount.

We have updated Section 63.3 to provide that a Servicer may either revise the Trial Period payment amount or leave it the same provided it does so consistently for all Mortgages that it services on behalf of Freddie Mac.

### **Delay in referral to foreclosure or proceeding with the next legal action**

We have revised our foreclosure suspension requirements to address situations where a payment is required under the terms of an alternative to foreclosure offer (e.g., Trial Period Plan) and the Borrower does not communicate a verbal or written intent to reject the offer.

Currently, the Guide provides that if a Borrower communicates a verbal or written intent to accept an alternative to foreclosure offer where a payment is required under the terms of that offer, the Servicer must postpone the referral to foreclosure until the last day of the month in which the first payment is due under the terms of the offer.

We have revised the requirements to provide that regardless of whether a Borrower communicates a verbal or written intent to reject an alternative to foreclosure, the Servicer must postpone the referral to foreclosure, where legally permitted, at least through the last day of the month in which the first payment is due under the terms of the offer based on receipt of a complete Borrower Response Package.

Additionally, we have expanded the foreclosure suspension requirements to provide that Servicers who make a counteroffer on a short sale must provide a date by which the Borrower must respond based on the evaluation of the First Complete Borrower Response Package received more than 37 days prior to a scheduled foreclosure sale date.

Sections 63.4, *Foreclosure Suspension Obligations and Additional Short Sale and Deed-in-Lieu of Foreclosure Requirements once the First Complete Borrower Response Package is Received*, 66.9.1, *When to Refer a Mortgage to Foreclosure*, and 66.41, *Complete Borrower Response Packages Received after Referral to Foreclosure*, and Exhibit 93 have been updated to reflect these changes.

### **Foreclosure sale date timing**

To ensure consistency with Regulation X, we have updated the Guide to revise the foreclosure sale date timing statement from “less than 37 days prior to a scheduled foreclosure sale” to “37 days or less prior to a scheduled foreclosure sale.”

Sections 63.3, 63.4, 64.6, *Evaluation Hierarchy, Borrower Solicitation and Communication*, and C65.7.1, *Foreclosure Actions and Borrowers in Bankruptcy*, have been revised to reflect this change.

### **Borrower Solicitation Letters**

We are updating Exhibits 1131, *Borrower Solicitation Letter – 31 Days Delinquent*, and 1161, *Borrower Solicitation Letter – 61 Days Delinquent*, to distinguish the home retention options available to Borrowers who are experiencing temporary hardships from the options available to Borrowers whose hardships are long-term or permanent in nature.

Borrowers experiencing long-term or permanent hardships and who wish to transition out of their homes must indicate their intent to vacate or sell the property on Guide Form 710, *Uniform Borrower Assistance Form*, to be evaluated for a short sale or DIL. In these circumstances, the Borrower may still be considered for a modification evaluation.

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In addition, the exhibits now state that Servicers are required to acknowledge to the Borrower receipt of a Borrower Response Package within five Business Days of its receipt and the acknowledgement must indicate whether the package is complete or incomplete. Further, the exhibits remind the Borrower that the Mortgage may be referred to foreclosure if he or she does not respond to the solicitation letter.

We are also clarifying the potential impact to a Borrower's credit when the Borrower accepts a foreclosure prevention option under a reduced payment plan. We have additionally included language to inform Borrowers that bringing their loan current through a reinstatement, repayment plan or loan modification and making continuous timely payments may improve their credit score over time.

## **UNEMPLOYMENT FORBEARANCE**

### **Background**

In Bulletin 2012-2, we introduced the unemployment forbearance relief option for Servicers to use to assist Borrowers who were experiencing financial hardships due to unemployment. The short-term unemployment forbearance was developed as a temporary relief option in which Servicers have delegated authority to suspend or reduce monthly payments for up to six months for eligible Borrowers who are unable to make their mortgage payments due to unemployment.

In addition, we introduced the extended unemployment forbearance relief option which extends the forbearance period up to an additional six months if a Borrower has not regained employment after the initial short-term unemployment forbearance period has ended.

### **Revisions**

These changes are effective **September 1, 2014**; however Servicers are encouraged to implement them sooner if they are operationally able to do so.

This Bulletin revises our short-term and extended unemployment forbearance requirements as follows:

- Servicers have delegated authority to approve eligible Borrowers for extended unemployment forbearance and are no longer required to obtain prior written authorization from Freddie Mac
- For a Borrower to be eligible for short-term unemployment forbearance, the Delinquency must not exceed 12 months of the Borrower's scheduled contractual monthly mortgage payment, including taxes and insurance if the Servicer is collecting Escrow for those expenses
- Retires Form 1206, *Freddie Mac Extended Unemployment Forbearance Request*, and eliminates the requirement to obtain a credit report and tax transcript to evaluate Borrowers for extended unemployment forbearance. However, Servicers may be required to process Internal Revenue Service (IRS) Form 4506-T/EZ:
  - To verify income that is required to be documented by the Borrower's most recent federal income tax return if the Borrower has not provided his or her signed income tax return with all schedules and forms
  - To reconcile inconsistencies between other information the Borrower provided
  - As otherwise required by Freddie Mac

Sections A65.26, *Unemployment Forbearance*, A65.27, *Short-Term Unemployment Forbearance*, and A65.28, *Extended Unemployment Forbearance*, have been revised to reflect these changes.

## **EXHIBIT 93, EVALUATION MODEL CLAUSES**

In addition to updates made to Exhibit 93 to reflect the revisions announced under the "Delay in Referral to Foreclosure or Proceeding with the Next Legal Action" section of this Bulletin, we have made the following updates to the exhibit.

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## **New Standard Modification and Streamlined Modification Trial Period Plan Notices**

### **Effective immediately**

In Bulletin 2014-4, we announced revisions to our modification requirements, including changes to processing requirements for Freddie Mac Standard Modifications and Freddie Mac Streamlined Modifications for Mortgages with pre-modification mark-to-market loan-to-value (MTMLTV) ratios less than 80%.

This Bulletin provides two new evaluation model clauses in Exhibit 93 for Servicers to use when they offer a Standard or Streamlined Modification to a Borrower whose Mortgage has a pre-modification MTMLTV ratio less than 80%. These model clauses provide qualified Borrowers with the option to receive a 40-year term and corresponding monthly payment for the Trial Period. In addition, the model clauses provide language to be provided to Borrowers who are eligible for a 30-year and possibly a 20-year term and corresponding monthly payment for the Trial Period. Once a Borrower selects the term for the Trial Period and submits the first Trial Period payment, the Borrower will be obligated to make the corresponding monthly payment, plus applicable Escrow amounts, for the remainder of the Trial Period. Servicers may not permit Borrowers to change the term during the Trial Period. Upon successful completion of the Trial Period, the Borrower's mortgage modification will reflect a principal and interest payment based on the term selected for the Trial Period.

### **Escrows for taxes and insurance**

#### **Effective immediately**

We have updated our repayment plan and forbearance plan offers in Exhibit 93 to reflect our current Guide requirements regarding Borrower monthly mortgage payments that do not include Escrows for taxes and insurance.

## **DISTANT EMPLOYMENT TRANSFER/RELOCATION BORROWER HARDSHIP**

### **Effective immediately**

We are limiting the hardship documentation for the eligible hardship of "Distant Employment Transfer/Relocation" to either a:

- Signed offer letter or notice from the employer showing the transfer to a new employment location, or
- Paystub from the new employer

Previously, Form 710 had permitted a Borrower to provide a written explanation in lieu of a letter from the employer or the paystub documentation. We are revising the documentation requirements to clarify that this hardship is limited to circumstances where the Borrower has already obtained employment in the new location or the Borrower's job is being transferred to a new location. A Borrower who relocates without a verifiable job offer or job transfer must identify the hardship reason that resulted in the Borrower's decision to relocate, as applicable.

Section 65.17, *Verifying a Borrower's Hardship*, and Form 710 have been updated to reflect this change.

## **SIMULTANEOUS ASSUMPTION AND MODIFICATION**

### **Effective immediately**

In Bulletin 2013-3, we updated the Guide to permit a non-Borrower applicant to be evaluated for a simultaneous assumption and modification when all Borrowers on the Mortgage are deceased and the non-Borrower applicant is not eligible to assume the Mortgage under the requirements of Guide Chapter 60, *Transfers of Ownership (Assumptions)*, or Freddie Mac's workout mortgage assumption requirements in Chapter B65, *Workout Options*.

We are updating the Guide to include HAMP as an additional modification option that Servicers may consider when evaluating a non-Borrower applicant for a simultaneous assumption and modification.

In addition, we are including a requirement that Servicers provide appropriate adverse action notices to non-Borrower applicants on behalf of Freddie Mac when non-Borrower applicants are determined by Freddie Mac not to be eligible for a simultaneous assumption and modification. Servicers are reminded that the language in Exhibit 93 related to notices of denial of a mortgage modification or the right of appeal is limited to the First Complete Borrower Response Package submitted by a Borrower and is not applicable to non-Borrower applicants. Under Section 53.8, *Compliance with Applicable Law*, Servicers must comply with the

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Truth-in-Lending Act (TILA), the Equal Credit Opportunity Act (ECOA) and the Fair Credit Reporting Act (FCRA) and their implementing regulations, when applicable, with respect to the provision of disclosures and adverse action notices to non-Borrower applicants.

Sections B65.12, *When to Consider a Freddie Mac Standard Modification*, and B65.28, *When to Consider a Workout Mortgage Assumption*, and Directory 5 have been updated to reflect this change.

## TRAINING

Servicers should visit the [Freddie Mac Learning Center](#) web page for Servicing training information and training resources.

## REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 63, 64, 65, A65, B65, C65 and 66
- Forms 710 and 1206
- Exhibits 93, 97, 1131 and 1161
- Directory 5

For a detailed list of the Guide updates associated with this Bulletin and the topics with which they correspond, refer to the Bulletin 2014-10 (Servicing) Guide Updates Spreadsheet available at [http://www.freddiemac.com/singlefamily/guide/docs/bl1410\\_spreadsheet.xls](http://www.freddiemac.com/singlefamily/guide/docs/bl1410_spreadsheet.xls).

## 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