



TO: Freddie Mac Sellers and Servicers

June 19, 2014 |

2014-12

SUBJECTS

This *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin updates and revises our **selling and Servicing** requirements as follows:

- Announces the retirement of ARMs with Lookback Periods less than 45 days
- Updates certain MERS® requirements
- Updates and clarifies our requirements for fraud training and reporting fraud

In addition to the changes listed above, we are making further updates and revisions to our selling and Servicing requirements, as described in the “Additional Guide updates” section of this Bulletin.

This Bulletin also updates and revises our **selling** requirements as follows:

- Updates certain Freddie Mac Relief Refinance MortgageSM – Same Servicer and Open Access requirements, including:
 - Revising the maximum amount of Mortgage proceeds that can be used to pay related Closing Costs, Financing Costs, Prepays and Escrows
 - Permitting the refinancing of a fixed-rate Mortgage into an ARM
- Updates monthly debt payment-to-income ratio requirements
- Updates requirements for verification of large deposits
- Provides the area median income estimates for 2014
- Clarifies when Freddie Mac will accept loan origination documents that were executed on behalf of a Borrower using a power of attorney (POA)
- Revises Guide Exhibit 37, *Loan Quality AdvisorSM Agreement*
- Updates Guide Section 17.7, *Loan Data Required for All Mortgages*, to include a Phase 2 ULDD Data Point

EFFECTIVE DATE

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

SELLING AND SERVICING

ARMs with Lookback Periods less than 45 days

Freddie Mac is reminding Seller/Servicers of their responsibility to provide Borrowers with payment adjustment notices for ARMs in accordance with revisions to the regulations implementing the Truth-in-Lending Act, 12 CFR Sections 1026.19 and 1026.20, promulgated by the Consumer Financial Protection Bureau in January 2013.

The revised Borrower notification requirements are effective for ARMs originated on and after January 10, 2015, and require Seller/Servicers to provide Borrowers with certain information about an interest rate adjustment at least 60 (but no more than 120) calendar days before the Payment Change Date of an ARM.

Freddie Mac has determined that Seller/Servicers will not be able to comply with the revised Borrower notification requirements for ARMs with Lookback Periods of the First Business Day of the month immediately preceding the month in which the Interest Change Date occurs (FBD), and will have difficulty complying with the notification requirements for ARMs with Lookback Periods less than 45 days.

Accordingly, effective **January 1, 2015**, Freddie Mac will no longer purchase ARMs with Lookback Periods less than 45 days; this includes ARMs with Lookback Periods of FBD (i.e., 6-month, 7/6 and 10/6 ARMs and some 1-year, 3/1, 5/1, 7/1 and 10/1 ARMs). On and after **October 20, 2014**, Sellers will not be able to take out contracts in the Freddie Mac Selling System for ARMs with Lookback Periods less than 45 days. Any contract for such an ARM entered into before October 20, 2014 must have a Freddie Mac Settlement Date before January 1, 2015.

Pursuant to Section 12.3(d), negotiated provisions that are in Master Agreements and/or Master Commitments and allow for the sale of ARMs with Lookback Periods less than 45 days are hereby amended to incorporate the provisions stated in the second sentence of the immediately preceding paragraph.

Guide Chapter 30, *Special Eligibility Requirements for ARMs*, Exhibit 17S, *Available Mortgage Products*, other applicable Guide sections and the Document Custody Procedures Handbook have been updated to reflect this change.

MERS®

Effective immediately, unless otherwise noted

Legal compliance

Effective October 15, 2014

Due to recent legal developments, Mortgages in the States of Montana, Oregon and Washington where MERS is not the original mortgagee of record, but is a subsequent assignee, are not eligible for sale to Freddie Mac. Seller/Servicers should refer to Bulletin 2014-6 regarding the use of the MERS Rider (Form 3158) for Mortgages where MERS is the original mortgagee of record in the above States.

Updates and clarifications

We are updating the Glossary to include the term “MERS Governing Documents.” Seller/Servicers are reminded that in the event any requirements of the MERS Governing Documents conflict with the requirements of the Guide, the requirements stipulated within the Guide will prevail.

We are also announcing the following updates and clarifications for MERS-registered Mortgages:

Effective **September 16, 2014**, we are requiring Seller/Servicers, who sell and/or service Mortgages for which MERS is the mortgagee, to:

- Register the Mortgage(s) with MERS prior to loan delivery to Freddie Mac
- Update the MERS System to reflect a MERS-registered Mortgage status as “Paid in Full” within two Business Days after the Payoff Date

Effective immediately, we are clarifying that Seller/Servicers must:

- Reflect a Concurrent Transfer of Servicing on the MERS System
- Prepare and execute an assignment of the Security Instrument to themselves prior to initiating the first legal action in a foreclosure proceeding
- Prepare and execute an assignment of the Security Instrument to themselves prior to filing any bankruptcy proof of claim or motion for relief from stay and record the assignment where required by State law

Reminders

For MERS-registered Mortgages, we are reminding Servicers of the need to:

- Reconcile Mortgage data in accordance with obligations set forth in the MERS Governing Documents
- Promptly notify Freddie Mac if their membership with MERS is terminated for any reason

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- Comply with all MERS-registered Mortgage loan data reconciliation requirements set forth in the MERS Governing Documents
 - Ensure that only their duly authorized officers or employees, as appointed by MERS pursuant to a MERS corporate resolution, are permitted to act as MERS signing officers

Freddie Mac may review a Servicer's compliance with MERS requirements periodically.

Guide updates

Sections 4.14, *MERS® Membership*, 22.14, *Assignment of Security Instrument*, 53.15, *MERS®*, 66.17, *Foreclosing in the Servicer's Name*, 67.7, *Bankruptcy General Requirements*, and 78.15, *Payoff – Matured or Prepaid*, and the Glossary have been updated to reflect the changes referenced above.

Fraud requirements

Training

Effective January 1, 2015

We are updating Sections 7.2 and 57.2, each titled *Prevention and Detection*, to require that Seller/Servicers ensure that fraud training is received by individuals and entities engaged to perform functions typically handled by employees, and in a position to notice or report fraud and suspected fraud. Seller/Servicers are not required to provide the training directly. They may instead hire another party to provide the training, or obtain an annual written verification from the engaged individuals or entities confirming that training has already been received in accordance with our Guide requirements.

Reporting requirements

In response to Seller/Servicer feedback, we are modifying Sections 7.3 and 57.3, each titled *Reporting Requirements*, to require the Seller/Servicer to report fraud and suspected fraud to Freddie Mac when the Seller/Servicer has a reasonable belief that certain actions occurred during origination or Servicing of a Mortgage. This change allows Seller/Servicers time to consider information they receive relating to suspected fraud.

Due to feedback that indicated additional time was required to research and report incidents of fraud and suspected fraud to Freddie Mac, we are also revising Sections 7.3 and 57.3 to extend the number of days in which Seller/Servicers must report fraud and suspected fraud to Freddie Mac from 30 to 60 days.

Additional Guide updates

Form 1036, Request for Physical or Constructive Possession of Documents

In response to operational questions and comments provided by industry participants, Freddie Mac is updating Form 1036 to add fields for:

- The identification of the Document Custodian Number
- The date of the Document Custodian's release of physical or constructive possession of documents
- The Servicer's return of the documents or termination of its constructive possession

Form 960, Agreement for Concurrent Transfer of Servicing of Single-Family Mortgages

To facilitate the processing of a Concurrent Transfer of Servicing, we are adding a field to Form 960 to allow Seller/Servicers to provide the aggregate unpaid principal balance (UPB) of Mortgages that are being delivered and are subject to the Concurrent Transfer of Servicing, if that amount is not the Master Commitment dollar amount. In addition, Form 960 is now a fillable form for Seller/Servicer convenience.

Uniform Instruments updates

Exhibit 4, *Single-Family Uniform Instruments*, has been updated to reflect changes that are included on Freddie Mac's [Uniform Instruments web page](#) for West Virginia and Louisiana.

We have also updated Exhibit 5, *Authorized Changes to Notes, Riders, Security Instruments and the Uniform Residential Loan Application*, to be consistent with the April 24, 2014 effective date for the rent loss insurance coverage for a 2- to 4-unit Primary Residence permitted change to the 1-4 Family Rider, Form 3170 announced in Bulletin 2014-6.

SELLING UPDATES

Relief Refinance Mortgages

Mortgage proceeds

We are revising our requirements for the use of Mortgage proceeds to permit the maximum of \$5,000 to be used to pay related Closing Costs, Financing Costs, Prepays, and Escrows in lieu of the lesser of 4% of the current UPB of the Mortgage being refinanced or \$5,000.

Sections A24.3, *Requirements for Freddie Mac Relief Refinance MortgagesSM – Same Servicer*, and B24.3, *Requirements for Freddie Mac Relief Refinance MortgagesSM – Open Access*, have been updated to reflect this change.

For Relief Refinance Mortgages – Open Access, Loan Prospector[®] feedback messages will be updated by June 23, 2014 to reflect this change.

Refinancing from a fixed-rate Mortgage into an ARM

We are permitting a fixed-rate Mortgage to be refinanced into an ARM, provided that it results in a reduction in the monthly principal and interest payment of the First Lien Mortgage. Eligible Relief Refinance Mortgages that are ARMs are limited to conventional nonconvertible 5/1, 7/1 or 10/1 ARMs.

However, because an ARM is a riskier product, Sellers should urge Borrowers to refinance into fixed-rate Mortgages whenever possible.

Sections A24.3 and B24.2, *Eligibility Requirements, Eligible Mortgages and Ineligible Mortgages*, have been updated to reflect this change.

Unemployment income clarification

In Bulletin 2014-6, we clarified that unemployment compensation is an eligible source of income for Relief Refinance Mortgages because Sellers are not required to make a determination that income is expected to continue for at least three years.

We are now removing requirements for unemployment compensation that is coupled with seasonal employment from Sections A24.3 and B24.3. Unemployment compensation continues to be an eligible source of income for Relief Refinance Mortgages, including when verification of income is required, subject to the requirements described under the “public assistance” income source in both sections.

Monthly debt payment-to-income ratio requirements

Section 37.16, *Monthly Debt Payment-to-Income Ratio*, has been updated to reflect the following changes. Loan Prospector feedback messages will be updated by June 23, 2014 to reflect these changes.

Student loans

We are amending our requirements for student loans that are deferred or are in forbearance to permit the use of a minimum of 2% of the outstanding balance as the monthly payment for qualifying purposes if no monthly payment is reported on the credit report.

Open-end accounts

We are clarifying that open-end accounts (accounts that require the balance to be paid in full monthly) are not required to be included in the monthly debt payment-to-income ratio if the Borrower has sufficient verified funds to pay off the outstanding balance. The verified funds must be in addition to any funds required for the transaction.

Pay off or pay down existing debts

We are clarifying that debts can be paid off or paid down using sources other than Mortgage proceeds and adding that the Seller must document the source of funds used to pay off or pay down the debt(s).

Requirements for verification of large deposits

We are amending our requirements regarding verification of large deposits when using account statements to verify assets. Prior to this Bulletin, a Seller was required to document a single deposit exceeding 25% of the total monthly qualifying income for the Mortgage. We are increasing the threshold from 25% to 50% of the total monthly qualifying income for the Mortgage. In addition, we are limiting the requirement to instances when the Mortgage is a purchase transaction and the deposit is needed to meet the requirements for Borrower Funds and/or reserves.

Sellers are reminded that they remain responsible for ensuring that any liabilities resulting from any borrowed funds are considered when qualifying the Borrower and that all Borrower Funds and reserves used in the evaluation of the Mortgage are from eligible sources.

Sellers should review Sections 37.22, *Streamlined Accept Documentation Requirements* and 37.23, *Standard Documentation Requirements*, for complete requirements.

Loan Prospector feedback messages will be updated at a later date. Until then, Sellers may disregard the feedback messages that contradict these revised requirements.

Area median income estimates

Effective June 22, 2014

As announced in our Single-Family Update e-mail on June 11, 2014, the Federal Housing Finance Agency has issued the area median income estimates for 2014.

Both Loan Prospector and the [Affordable Income & Property Eligibility tool](#) will be updated by June 23, 2014 to reflect the 2014 area median income estimates. The 2014 area median income estimates will apply to Home Possible® Mortgages submitted or resubmitted through Loan Prospector on or after **June 22, 2014**.

Borrower documents executed using power of attorney

Effective for Mortgages with Application Received Dates on or after July 1, 2014

We are revising our requirements for Mortgages with loan origination documents signed on behalf of a Borrower using a POA. Section 16.5, *Power of Attorney*, is being updated to state that use of a POA is acceptable if the Seller determines that applicable law requires it and documents that determination with a written statement to be delivered to the Document Custodian with the Note. In addition, we are clarifying that the person acting as attorney-in-fact should not be affiliated with any party to the loan transaction other than the Borrower.

The Document Custody Procedures Handbook has also been updated to reflect this change.

Loan Quality Advisor (LQA) agreement

We are making several changes to Exhibit 37, including:

- Using the Merged Credit Reference Number to obtain a copy of the credit report used in underwriting
- Reflecting that loans evaluated in Loan Prospector but submitted to LQA without the Key Number and processed through Risk Assessment will not use the credit information previously obtained in Loan Prospector

Phase 2 ULDD Data Point requirements

Effective for Mortgages with Application Received Dates on or after March 1, 2014 and Delivery Dates on or after August 25, 2014

In Bulletin 2014-2, Chapter 17, *Mortgage Delivery Instructions*, was updated to incorporate the Phase 2 ULDD Data Point requirements. We are updating Section 17.7 to expand the applicability of ULDD Data Point *Current UPB Amount* (Sort ID 442) to all Mortgages. This requirement is reflected in the Phase 2 Uniform Loan Delivery Dataset specification.

REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 4, 7, 16, 17, 22, A24, B24, 30, F33, 37, 53, 57, 66, 67 and 78
- Forms 960 and 1036
- Exhibits 4, 5, 17S and 37
- Glossary

For a detailed list of the Guide updates associated with this Bulletin and the topics with which they correspond, refer to the Bulletin 2014-12 (Selling and Servicing) Guide Updates Spreadsheet available at http://www.freddiemac.com/singlefamily/guide/docs/bl1412_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.

Sincerely,



Laurie Redmond
Vice President
Offerings Effectiveness