



**TO: Freddie Mac Sellers and Servicers**

February 17, 2015 | 2015-2

## **SUBJECT: SELLING AND SERVICING UPDATES**

This *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin announces:

### **Selling and Servicing topics**

- Updates to Guide Forms 16SF, *Annual Eligibility Certification Report*, and 1107SF, *Seller/Servicer Change Notification Form*, to help Freddie Mac better understand its Seller/Servicers
- A new requirement that Seller/Servicers review the Federal Housing Finance Agency (FHFA) Suspended Counterparty Program list to ensure that no person or entity whose name is on the list was involved in certain activities related to a Freddie Mac Mortgage
- Updated versions of Forms 1035, *Document Custodial Agreement: Single-Family Mortgages*, and 1035DC, *Designated Custodial Agreement: Single-Family Mortgages*

### **Servicing topics**

- Revisions to the notification requirements for bankruptcy cramdowns, including new Form 1155, *Bankruptcy Cramdown Pre-Confirmation Proposal of Settlement Terms*
- Updates to our reporting and remittance requirements for properties purchased by third parties at foreclosure sale, including new Form 1160, *Third-Party Sale Transmittal Worksheet*
- Changes concerning when a modification agreement is required for modifications resulting from partial principal curtailments
- Updates to our rollback reporting requirements
- Updates to our insurance loss settlement requirements
- Clarifications related to bankruptcy filings after foreclosure sale

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

## **EFFECTIVE DATE**

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

## **SELLING AND SERVICING TOPICS**

### **Form 16SF and 1107SF updates**

#### **Effective February 23, 2015**

We are updating Forms 16SF and 1107SF to request additional information and increase ease of use, including:

- Making it easier for Seller/Servicers to tell us about affiliated entities, ownership and investors
- Allowing direct navigation to sections without scrolling
- Adding new contact types
- Improving the contacts view to make it easier to verify all contact information and make changes
- Allowing documents, including business plans, to be attached to Form 1107SF in lieu of manually entering information
- Requesting the date of an organizational change when a surrender or issuance of a charter is reported

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- Reorganizing Form 16SF to move the parent company information into a new section where the types of affiliate relationships can be specified. The new affiliate section allows Seller/Servicers to provide details such as ownership percentage and type of organization for affiliate relationships.

Seller/Servicers are encouraged to provide contact information for each relevant contact type so that the correct person receives important notifications. Required contact types include the Chief Executive Officer and Chief Financial Officer and contacts for primary business areas, Section 404 (Truth in Lending) (for Servicers), Office of Foreign Asset Control/Anti-Money Laundering (OFAC/AML), anti-predatory lending, quality control, and compliance.

While Seller/Servicers must enter information for some new fields this year, in subsequent years, some fields will be pre-populated based on previously submitted information and Seller/Servicers need only review and confirm the accuracy of that information. For any draft Form 16SF in progress, Seller/Servicers should review the form in its entirety prior to submission to validate that the previously entered responses remain accurate.

We are also adding questions to Form 16SF concerning affiliates and subsidiaries, as referenced in Bulletin 2014-15, including questions about affiliate relationships with loan originators that do not also perform the delivery/sale.

Changes to Form 1107SF also reflect updates to requirements for subsequent Transfers of Servicing announced in Bulletins 2014-9 and 2014-24.

### **The FHFA Suspended Counterparty Program**

We are updating Guide Section 2.24, now titled *Freddie Mac Exclusionary List and FHFA Suspended Counterparty Program*, to include requirements related to FHFA's Suspended Counterparty Program. Under the program, Freddie Mac is prohibited from conducting business with individuals and entities whose names are on FHFA's Suspended Counterparty Program list. Effective immediately, Seller/Servicers are required to review the Suspended Counterparty Program list to ensure that no person or entity whose name is listed was involved in the underlying real estate transaction relating to a Mortgage to be sold to Freddie Mac, the origination or sale of a Mortgage to be sold to Freddie Mac, or the Servicing of a Freddie Mac Mortgage. The list can be found on FHFA's web site at <http://www.fhfa.gov/SupervisionRegulation/LegalDocuments/Pages/SuspendedCounterpartyProgram.aspx>.

### **Forms 1035 and 1035DC**

We are updating Forms 1035 and 1035DC to include additional information that will alleviate the need for common amendments to the forms. Forms 1035 or 1035DC must be submitted to Freddie Mac prior to delivering any Notes and assignments to a new Document Custodian or to Freddie Mac's Designated Custodian.

The revised forms are available on Freddie Mac's web site at <http://www.freddiemac.com/cim/forms.html>. Prior versions of these forms will not be accepted or processed by Freddie Mac.

Applicable sections in Guide Chapter 18, *Document Custody*, have been updated to reflect the revised title of Form 1035.

## **SERVICING TOPICS**

### **Bankruptcy cramdowns**

Servicers must notify Freddie Mac of the proposed terms of a bankruptcy cramdown plan by completing and submitting new Form 1155 via:

- E-mail to [NPL\\_File\\_Prep@freddiemac.com](mailto:NPL_File_Prep@freddiemac.com) to the attention of File Preparation, or
- Fax to (571)382-4914

Servicers are no longer required to submit the documentation previously specified in Section 67.13(a), *Notifying Freddie Mac of a Proposed Bankruptcy Cramdown*. This will help streamline the submission and review process.

Servicers must still submit notification of proposed plan terms to Freddie Mac within one Business Day of receiving the plan. Freddie Mac will review Form 1155 and provide the Servicer with its decision to approve, make a counter-offer to the terms or request additional information.

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If a bankruptcy cramdown is confirmed, the Servicer is required to submit the final terms of the plan via the “Court Mandated Modification” screen in Workout Prospector® within one Business Day of receiving the plan. Servicers are no longer required to notify Freddie Mac and submit the documentation previously specified in Section 67.13(b), *Notifying Freddie Mac of a Confirmed Bankruptcy Cramdown*. By completing the “Court Mandated Modification” screen and submitting the final confirmed bankruptcy cramdown plan terms for settlement, the Servicer represents and warrants to Freddie Mac that the final terms are accurate for settlement of the modification in Freddie Mac’s system.

As a reminder, Servicers must report a default action code of 35 (Bankruptcy Cramdown Scheduled) when a bankruptcy cramdown is scheduled and a default action code of 69 (Bankruptcy Plan Confirm) once the reorganization plan has been confirmed.

We have updated Section 67.13, *Bankruptcy Cramdowns*, to reflect these changes.

## **Third-party foreclosure sale reporting and remittance requirements**

### **Effective May 18, 2015**

To help ensure efficient and timely settlements, we are making several clarifications and updates to our reporting and remittance requirements for a property that is purchased by a third party at the foreclosure sale.

Sections 66.33, *Reporting Foreclosure Sale Results*, 66.37, *Third-Party Sale Proceeds, Reimbursement of Expenses, and Reporting and Remittance Requirements*, and 78.16, *Third-Party Foreclosure Sale*, have been updated to reflect the changes noted below. We are also introducing new Form 1160.

### ***Remittance of third-party sale proceeds***

We are updating our requirements to state that the Servicer must instruct the foreclosure counsel conducting the foreclosure sale to remit the entire third-party sale proceeds to the Servicer via overnight mail or wire transfer no later than three Business Days after the foreclosure counsel receives the proceeds. This is required regardless of the sale price relative to the total indebtedness of the Mortgage. The Servicer’s receipt of the sale proceeds from a third-party foreclosure sale is considered received when the institution receives the entire sale proceeds.

A Servicer should typically receive the entire sale proceeds within 60 days from the date of the foreclosure sale. If the Servicer has not received the sale proceeds from the foreclosure counsel who conducted the sale within 60 days from the date of the foreclosure sale, then the Servicer should provide a status update to Freddie Mac at [shortsales@freddiemac.com](mailto:shortsales@freddiemac.com). This will allow Freddie Mac to track and assist in any efforts to reduce potential delays in the settlement process.

### ***Reimbursements owed to a Servicer following a third-party sale***

Following the completion of all investor reporting and remitting requirements for a third-party foreclosure sale, it may be necessary for Freddie Mac to reimburse the Servicer for:

- Reimbursable principal and interest
- Any shortage in the sale proceeds (e.g., sheriff or auctioneer fees), and/or
- Reimbursable expenses or amounts, including amounts not legally collectable from the third-party purchaser

In order for the Servicer to be reimbursed for any of these expenses or amounts, Freddie Mac must receive a third-party foreclosure sale claim package. The associated claim package must be sent to Freddie Mac by the fifth Business Day following the Servicer’s completion of the reporting and remittance requirements pursuant to Section 78.16, but no later than the 10<sup>th</sup> Business Day following the Servicer’s receipt of the sale proceeds. Failure to submit the associated claim package in the appropriate time frame could forfeit the Servicer’s ability to be reimbursed, in part or in whole, for otherwise reimbursable expenses or amounts.

As a reminder, a Servicer does not need to send a third-party foreclosure sale claim package to Freddie Mac if the net sale proceeds meet or exceed the total indebtedness of the Mortgage (e.g., the unpaid principal balance of the Mortgage plus accrued interest, Escrow advances and expenses).

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## **Form 1160, Third-Party Sale Transmittal Worksheet**

In lieu of sending a third-party foreclosure sale claim package, a Servicer can opt to complete and send new Form 1160 to Freddie Mac. This will generally eliminate the need for the Servicer to include supporting documentation or attachments, allowing for faster submission to and review by Freddie Mac.

There are situations where Freddie Mac may instruct the Servicer to provide standard supporting documentation including, but not limited to, the documents required by the third-party foreclosure sale claim package specified in Section 66.37. Therefore, Servicers are still required to maintain all of the standard supporting documentation when sending Form 1160 in order to be reimbursed any expenses or amounts following a third-party foreclosure sale.

If feasible, Servicers may begin using Form 1160 **immediately** when seeking reimbursement of expenses or amounts owed to a Servicer following a third-party sale. Freddie Mac is prepared to accept Form 1160 submissions immediately.

### **Modification agreements for modifications resulting from partial principal curtailments**

We are modifying the requirements in Section 59.2, *Partial Prepayments (Curtailments)*, that required the execution of a modification agreement by all necessary parties to the transaction. To provide additional flexibility, the Servicer may determine, in its discretion and in compliance with applicable law, whether to require:

- A modification agreement executed by both the Borrower and the Servicer
- A Servicer-executed modification agreement, or
- No written modification agreement

If the Servicer elects to require a modification agreement, the Servicer must send a copy of the modification agreement to Freddie Mac by the last Business Day of the month of the effective date of the new payment. If the number of Mortgages that the Servicer is modifying in accordance with Section 59.2 is more than ten in a given month, then the Servicer must complete and attach Form 1102, *Modified Principal and Interest Payment*, with its submission to Freddie Mac, including information for all such modifications. In addition, Servicers must complete and attach Form 1102 for each modification completed under Section 59.2 that is not subject to a written modification agreement, even if the number of such modifications in a given month is less than ten.

We are adding fields to Form 1102 for Servicers to report additional principal and interest payment adjustments and the associated effective dates, as applicable. This will help ensure Freddie Mac maintains accurate data for future principal and interest payment adjustments affecting Step-Rate Mortgages that are reamortized in accordance with Section 59.2.

Freddie Mac continues to require that the Servicer warrants that any modification completed under Section 59.2, whether subject to a modification agreement submitted to Freddie Mac or a completed Form 1102, is legally sufficient under State and federal law. As a reminder, Servicers must continue to report and remit the new monthly modified principal and interest payments in accordance with the requirements in Chapter 78, *Reporting and Remitting Requirements*.

### **Rollbacks**

#### **Effective May 18, 2015**

We are adding new Section 66.33.1, *Rollbacks*, to provide more transparent reporting requirements concerning when a rollback is necessary.

The result of a foreclosure sale may need to be corrected or removed for various reasons including, but not limited to:

- The foreclosure sale being legally invalid or void
- A third party entering an upset bid per applicable State law on a property that Freddie Mac acquired at the foreclosure sale (i.e., Real Estate Owned (REO) property)
- The property being sold to a third party at the foreclosure sale, but the sale falls through

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- The Servicer incorrectly reported the results of a foreclosure sale to Freddie Mac and needs to re-report the correct results
  - The Servicer approved the Borrower for an alternative to foreclosure prior to the foreclosure sale, but did not cancel the foreclosure sale

Because rollbacks may occur for various reasons we are revising the term “REO rollback” to simply “rollback.” Guide Exhibit 96, *Servicing Incentives and Compensatory Fees*, and Form 106, *Rollback Request Form*, have been updated to reflect this change.

Subsequent to Freddie Mac’s receipt and processing of the rollback, Servicers must ensure that they continue to report all applicable information through Electronic Default Reporting (EDR) for the Mortgage. In the event the Servicer needs to re-report the correct results, the Servicer must re-report the correct foreclosure sale results via the Freddie Mac Service Loans application.

As a reminder for all rollback requests, the Servicer must ensure that title vests to the appropriate party in the event the rollback has been processed, and/or the foreclosure sale has been rescinded.

Section 66.33 and Directory 5 have also been revised to reflect these changes.

## **Insurance loss settlements**

### **Effective February 1, 2015**

We updated our insurance loss settlement requirements in Bulletin 2014-20, including that when the mortgage status at time of notification of loss is current or less than 31 days delinquent, inspections and a repair plan are not required if total insurance proceeds are less than or equal to \$5,000.

Section 58.10, *Insurance Loss Settlements*, is being updated to increase the insurance proceeds limit for these instances. When the mortgage status at time of notification of loss is current or less than 31 days delinquent, inspections and a repair plan are not required if total insurance proceeds are less than or equal to \$10,000.

## **Bankruptcy filings after foreclosure sale**

### **Effective May 18, 2015**

We are clarifying that for a bankruptcy filing after a foreclosure sale (whether a Chapter 7, 11, 12 or 13 bankruptcy petition), the Servicer must refer the case to counsel within three Business Days of the Servicer’s receipt of notice that a petition has been filed if:

- The bankruptcy filing invalidates the foreclosure sale; and/or
- The bankruptcy is filed after the foreclosure sale but prior to the expiration of a redemption, confirmation or ratification period

Additionally, the law firm to which a foreclosure referral was made, and whose foreclosure counsel conducted the foreclosure sale, must handle the subsequent bankruptcy matter unless the bankruptcy matter is filed in a different State.

Sections 67.10, *Managing New Bankruptcy Filings*, and 67.15, *Selecting Bankruptcy Counsel*, have been updated to reflect these clarifications.

## **ADDITIONAL GUIDE UPDATES**

### **Updates to reflect retirement of the designated counsel program**

The designated counsel program was retired effective June 1, 2013. We are removing outdated references to the program from Sections 67.10, 67.16, *Reimbursement of Expenses Related to a Bankruptcy*, and A69.4, *Selecting Bankruptcy Counsel*.

### **Directory 9 updates**

Document execution functions are moving from the Mortgage Purchase Operations department to the Investor Reporting department at Freddie Mac. Directory 9 has been updated to reflect the new contact information.

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## REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 2, 18, 59, A65, 66, 67, A69 and 78
- Forms 16SF, 106, 1102, 1107SF, 1155 and 1160
- Exhibit 96
- Directories 5 and 9

For a detailed list of the Guide updates associated with this Bulletin and the topics with which they correspond, refer to the Bulletin 2015-2 (Selling and Servicing) Guide Updates Spreadsheet available at [http://www.freddiemac.com/singlefamily/guide/docs/bll1502\\_spreadsheet.xls](http://www.freddiemac.com/singlefamily/guide/docs/bll1502_spreadsheet.xls).

## CONCLUSION

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call Customer Support at (800) FREDDIE.

Sincerely,

A handwritten signature in black ink, appearing to read "Yvette W. Gilmore", with a long horizontal flourish extending to the right.

Yvette W. Gilmore  
Vice President  
Servicer Performance Management