



TO: Freddie Mac Servicers

April 15, 2015

2015-5

SUBJECT: SERVICING UPDATES

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

Alternatives to foreclosure

- The [new “Modification Solution” screen in Workout Prospector®](#) to facilitate the settlement of modifications of Mortgages guaranteed by the Rural Housing Service (RHS) and other modifications that cannot be settled through other Workout Prospector paths
- Updates to our requirements for the [reimbursement of transfer taxes](#) when an obligation to pay transfer taxes is imposed on a deed-in-lieu of foreclosure (“DIL”) transaction
- Additional requirements for [participating in mortgage reinstatement assistance programs](#) developed and administered by State Housing Finance Agencies (HFAs) and funded by the Innovation Fund for the Hardest Hit Housing Markets or Hardest Hit Fund (“HHF”) initiative, for which Freddie Mac requires Servicer participation

Foreclosure and Real Estate Owned (REO)

- Freddie Mac’s expectations in the event there are [surplus proceeds or overbid funds from a third-party foreclosure sale](#)
- Changes to the [claim submission time frames for REO expenses](#)

Senior Subordinate Mortgages

- Requirements for [Servicing Senior Subordinate Mortgages](#)

In addition to the above changes, we are making further updates and revisions, as described in the [“Additional Guide Updates and Reminders”](#) section of this Bulletin.

EFFECTIVE DATE

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

ALTERNATIVES TO FORECLOSURE

Mortgage modification settlements

We are announcing the new “Modification Solution” screen for “Other Mods” in Workout Prospector to facilitate the settlement of modifications of Mortgages guaranteed by the RHS (“RHS Mortgage”) as well as other modifications that are specified by Freddie Mac from time to time and cannot be settled through other Workout Prospector paths.

To facilitate the settlement of RHS Mortgage modifications, Servicers must receive the modification approval letter from RHS before entering and submitting the data via the “Modification Solution” screen in Workout Prospector. When submitting the data to Freddie Mac via Workout Prospector, the Servicer must complete the data entry in accordance with the instructions set forth in the Workout Prospector Users’ Guide and the terms of the RHS modification approval letter.

After Freddie Mac completes its review of the Servicer’s submission, Freddie Mac will change the Workout Prospector system status to either approved or declined with respect to the modification of an RHS Mortgage. Freddie Mac’s change to the system status does not constitute Freddie Mac’s approval or denial of the RHS Mortgage modification. Servicers are obligated and fully delegated to follow and implement RHS loss mitigation

requirements for the underwriting of Freddie Mac Mortgages that are guaranteed by the RHS. Freddie Mac's change to an approval status in Workout Prospector is to allow Servicers to proceed with the settlement of the RHS Mortgage modifications. Freddie Mac's change to a decline status is a hard stop (e.g., an expired RHS approval letter or the Servicer has instructed Freddie Mac to decline the submission) to the settlement process pending the Servicer's resolution of an issue in compliance with RHS requirements. To implement the settlement of an RHS Mortgage modification after the status has changed to "decline" for one of the previously stated reasons, Servicers should obtain an updated approval letter or make the necessary changes to the "Modification Solution" screen and then resubmit the data via the "Modification Solution" screen in Workout Prospector to Freddie Mac.

As a reminder, Servicers must still complete and submit Guide Form 1128 with the terms of the Mortgage as modified under the RHS guidelines 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

Transfer taxes imposed on a DIL transaction

In Bulletin 2014-3, Freddie Mac advised Servicers that, in limited circumstances, it may be advisable to pay transfer taxes under protest in connection with the recording of deeds conveying real estate to Freddie Mac after a foreclosure or DIL.

We are updating Guide Section 66.35 to provide that a Servicer Servicing a Mortgage owned or guaranteed by Freddie Mac will be reimbursed for transfer taxes when closing a DIL transaction if:

- Local authorities require the Servicer to pay the transfer tax in order to record a deed and ensure that title vests appropriately
- The transfer tax is paid under protest
- The Servicer submits the request for written pre-approval (RPA) for reimbursement of the transfer tax via the Freddie Mac Reimbursement System (see Section 71.24), and
- Counsel could not process the foreclosure and/or the DIL transaction in a manner that would successfully avoid the imposition of the transfer tax obligation

Servicers must use expense code 074003 (Transfer Tax) when submitting an RPA or subsequent claim in the Reimbursement System. RPAs may be submitted prior to receiving the executed deed or prior to the executed deed or lease being sent for recordation. However, the RPA must be accompanied by supporting documentation including, but not limited to, proof that the transfer tax was paid under protest.

Servicers will not be reimbursed for transfer taxes if any of the above conditions and requirements do not exist or are not met.

Hardest Hit Fund: Mortgage reinstatement assistance programs

We are updating Section 64.12 to state that if the Servicer receives notification from the HFA that the Borrower has been approved for funds that only partially reinstate the Mortgage, the Servicer must accept those funds provided the Borrower qualifies for and is committed to bringing the Mortgage current through a retention solution such as a repayment plan or a mortgage modification.

In the following circumstances, the Servicer must notify the HFA that funds cannot be applied to the Mortgage until there is a comprehensive solution for reinstating the Mortgage:

- The Servicer is unable to achieve quality right party contact and obtain a commitment from the Borrower to resolve the Delinquency
- The Borrower does not respond to the Servicer's offer for a retention solution that will fully reinstate the Mortgage (e.g., a mortgage modification)
- The Borrower declines the Servicer's offer for a retention solution that will fully reinstate the Mortgage

We have also updated Section 64.12 to state that the Servicer may, but is not required to, prepare and require execution of a modification agreement reflecting the recalculated monthly Mortgage payment in accordance with Section 59.2 and in compliance with applicable law.

FORECLOSURE AND REO

Surplus proceeds or overbid funds from a third-party foreclosure sale

Effective for all foreclosure sales occurring on or after July 15, 2015

We are updating Section 66.32 to make clear Freddie Mac's expectations of a Servicer if the property is purchased by a third party at the foreclosure sale and there are surplus proceeds or overbid funds from the third-party foreclosure sale.

In such circumstances, the Servicer must pursue and claim to retain the funds, so long as it is determined to be in Freddie Mac's best interest, to the extent:

- The funds will satisfy or reduce the total indebtedness under the terms of the Mortgage or such other amount as may be allowed by State law (e.g., amount and terms of the judgment), and the costs and expenses of the sale, if possible; and
- It is permitted under applicable State law

If the Servicer knows that additional attorney fees will be incurred when pursuing any surplus proceeds or overbid funds, and the Servicer believes it is in Freddie Mac's best interest to pursue and claim to retain any surplus proceeds or overbid funds, the Servicer must submit an RPA in the Reimbursement System using expense code 010000 (Attorney Fees (Judicial)) or 010006 (Attorney Fees (Non Judicial)) to recommend incurring additional attorney fees.

Freddie Mac may require the Servicer to indemnify Freddie Mac for any loss Freddie Mac incurs due to incorrect foreclosure sale bidding, or for failure to retain any surplus proceeds or overbid funds where appropriate.

Claim submission time frames for REO expenses

Effective July 17, 2015

Following Freddie Mac's or a Senior Subordinate Trust's (as defined in Section S84.2) acquisition of the REO through foreclosure sale or DIL, Servicers may file initial, supplemental and final claim types in the Reimbursement System for reimbursement of REO expenses.

In an effort to provide Servicers with clear and uniform time frames for submission of initial, supplemental and final claim types in the Reimbursement System for reimbursement of REO expenses, we have changed the time frames for each claim submission type to be based on the foreclosure sale date rather than the acquisition date (i.e., the latter of the foreclosure sale date, date of the expiration of the redemption period and/or confirmation/ratification date).

The REO expenses table in Section 71.13 has been updated as follows:

Claim submission type	Description	Time frame
Initial	Filed to request reimbursement of expenses incurred up to and including the foreclosure sale date. Reimbursable expenses include, but are not limited to, incurred legal fees and costs.	Freddie Mac must receive no later than 45 days after the foreclosure sale date. (See Sections 66.33 and B65.48 regarding reporting requirements for foreclosure sale results and DIL transactions.)
Supplemental	Filed to request expenses incurred after the foreclosure sale date but prior to the settlement of the sale of the REO	The Servicer may submit any time after the foreclosure sale date, but no later than 60 days after the settlement of the sale of the REO

Claim submission type	Description	Time frame
Final	Filed to request reimbursement of allowable expenses incurred after the foreclosure sale date	The Servicer may submit any time after the foreclosure sale date, but no later than 60 days after the settlement of the sale of the REO

If feasible, Servicers may begin filing claims in the Reimbursement System for reimbursement of REO expenses based on the foreclosure sale date immediately. However, Servicers must file claims for reimbursement of REO expenses based on the updated REO expenses table in Section 71.13 on and after July 17, 2015.

Section 71.19 has also been updated to reflect these changes.

SENIOR SUBORDINATE MORTGAGES

Note: The terms “Freddie Mac-Owned Mortgage,” “Freddie Mac-Owned or Guaranteed Mortgage,” “Senior Subordinate Mortgage” and “Senior Subordinate Trust” used below are defined in Section S84.2.

Overview

Over the last several years, Freddie Mac has, under the direction of the Federal Housing Finance Agency (FHFA), worked to reduce its exposure to single-family credit risk through various credit-risk-transfer offerings. These offerings, such as our Structured Agency Credit Risk (STACR) and Agency Credit Insurance Structure (ACIS) securities, have not only helped reduce credit risk to both Freddie Mac and U.S. taxpayers, they have also encouraged private capital participation in the mortgage market. Continuing this effort, Freddie Mac, in participation with certain Seller/Servicers, has begun to implement a credit risk transfer initiative that will involve Freddie Mac’s transfer of Mortgages to one or more Senior Subordinate Trusts. Participating Seller/Servicers will service these Mortgages in accordance with the Guide, which will include new Servicing requirements specific to these Mortgages, and other Purchase Documents. For ease of reference, we have consolidated the requirements applicable solely to Senior Subordinate Mortgages in new Guide Chapter S84.

Participating Seller/Servicers

Certain Sellers/Servicers have entered into agreements to sell Mortgages to Freddie Mac and service them in accordance with the Guide and requirements set forth in Chapter S84. Each Mortgage purchased by Freddie Mac for the purpose of transfer to a Senior Subordinate Trust will remain a Freddie Mac-Owned Mortgage until the date of transfer and should therefore be serviced in the same manner as other Freddie Mac-Owned Mortgages. Freddie Mac will notify participating Servicers of the date when certain Mortgages will be transferred to a Senior Subordinate Trust. Those Servicers must begin Servicing the transferred Mortgages in accordance with the requirements in Chapter S84 and applicable Purchase Documents on the date specified by Freddie Mac in the notice.

NOTE: Unless a Seller/Servicer or Transferee Servicer has entered into an agreement to service Senior Subordinate Mortgages, such Seller/Servicers and Transferee Servicers are not subject to the Senior Subordinate Mortgage Servicing requirements outlined in this Bulletin or Chapter S84.

Securitization structure and Servicing overview

Freddie Mac will transfer legal ownership of certain Mortgages to a Senior Subordinate Trust. The trust will issue senior and subordinate securities that provide the holders of these securities with the right to receive certain principal and interest payments from the trust. Freddie Mac will guarantee payments to the holders of any senior securities issued by the trust. However, the subordinate securities will not be guaranteed and, in this way, Freddie Mac will transfer a portion of the Senior Subordinate Mortgages’ credit risk to the holders of the subordinate securities. Freddie Mac will also act as master servicer and/or trustee for each Senior Subordinate Trust.

While the routine Servicing of Senior Subordinate Mortgages will generally not differ from that of other Freddie Mac-Owned or Guaranteed Mortgages, there are certain situations that require slight modifications to existing Servicing requirements, primarily related to certain foreclosure and default-related Servicing

requirements. For the most part, these changes are driven by laws or regulations that require the Senior Subordinate Trust to execute documents or require Servicers to disclose the owner of the Mortgage.

Special Servicing requirements for Senior Subordinate Mortgages

Most sections of the Guide and other Purchase Documents will apply to the Servicing of Senior Subordinate Mortgages. However, interspersed throughout various chapters in Volume 2 of the Guide, are sections outlining requirements that do not apply to Senior Subordinate Mortgages. Instead of amending each of these sections with requirements specific to Senior Subordinate Mortgages, and for ease of reference, we have consolidated all of the modified requirements into Chapter S84. While this chapter primarily modifies existing Guide sections, it includes a few sections addressing requirements unique to Servicing Senior Subordinate Mortgages. Some of the key requirements in Chapter S84 are highlighted below:

Intra-Servicer transfer of Mortgages

Freddie Mac will provide each participating Seller/Servicer with a unique “Senior Subordinate Servicer number.” The use of this Servicer-specific Senior Subordinate Servicer number will allow for the easy identification of Mortgages that Freddie Mac has transferred, or intends to transfer, to a Senior Subordinate Trust.

In the event Freddie Mac is unable to transfer a Mortgage to a Senior Subordinate Trust or Freddie Mac repurchases a Mortgage from a Senior Subordinate Trust, the Servicer must follow Freddie Mac’s instructions to transfer the Mortgage from the Senior Subordinate Servicer number to another Servicer number under which the Servicer services Freddie Mac-Owned or Guaranteed Mortgages that are not subject to Chapter S84. We will notify the Servicer when there is a need for an “intra-Servicer transfer of Mortgage.” Such transfers do not constitute a Transfer of Servicing and therefore, are not subject to any fee or prior notice period applicable to subsequent Transfers of Servicing in Section 56.3.

Limited power of attorney

The documents establishing each Senior Subordinate Trust will provide Freddie Mac with a limited power of attorney (LPOA) to act as attorney-in-fact on behalf of each Senior Subordinate Trust for the purpose of executing documents in the name of the trust for the proper Servicing of a Senior Subordinate Mortgage. These documents further authorize Freddie Mac to delegate that authority to its Servicers. We will delegate this authority to Servicers of Senior Subordinate Mortgages and will provide them with LPOAs consistent with LPOAs that we provide to Servicers for Freddie Mac-Owned or Guaranteed Mortgages. However, there may be some jurisdictions that do not recognize the further delegation of an LPOA. The Servicer must seek further instruction from Freddie Mac if it determines that it cannot rely on the authority of the delegated LPOA.

Updates to existing limited retention agreements

We will update our limited retention agreements with the law firms selected by Servicers to handle Freddie Mac Default Legal Matters to include Senior Subordinate Trusts as a party to the agreements. We encourage, but do not require, Servicers to similarly update their contracts with the selected firms. (Servicers are required to enter into such contracts in accordance with Section 69.5.)

Foreclosure

Chapter S84 includes unique foreclosure requirements relating to:

- **Foreclosure referral documentation requirements:** The Servicer must provide the firm additional written information and documentation, such as that relating to the ownership status of the Mortgage, the legal name of the Senior Subordinate Trust and an original copy of the LPOA. See Section S84.15 for additional information.
- **Transfer taxes:** As the Senior Subordinate Trust has legal ownership of the Senior Subordinate Mortgage(s), Servicers are prohibited from conducting foreclosure in Freddie Mac’s name and/or vesting title to the foreclosed Mortgaged Premises in Freddie Mac’s name, even if doing so will allow for the avoidance of otherwise payable transfer taxes. We also prohibit the vesting of title to the foreclosed Mortgaged Premises in the Servicer’s name.

Additional Chapter S84 requirements include, but are not limited to:

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- **Internal Revenue Service (IRS) form filings:** Updated guidance for the filing of IRS tax Forms 1099-A, *Acquisition or Abandonment of Secured Property*, and 1099-C, *Cancellation of Debt*, on behalf of the Senior Subordinate Trust. Instruction to report such filings to Freddie Mac is provided in new Form 1065A.
 - **Model clauses:** Instructions on how to modify model clauses provided in Guide Exhibit 93
 - **Real Estate Owned (REO):** Freddie Mac will manage the REO on behalf of the Senior Subordinate Trust. The Servicer must continue to inspect and maintain the property until receipt of the Property Condition Certificate, and pay any homeowners association (HOA) dues and taxes. The Servicer must also notify the taxing authority and any applicable HOA of Freddie Mac's management of the property on behalf of the Senior Subordinate Trust.

Directories 3, 5 and 6 have been updated to reflect these changes.

ADDITIONAL GUIDE UPDATES AND REMINDERS

Updates to Form 906, *Freddie Mac Loan Coverage Advisor*SM *Authorized User Role Form*

Effective April 9, 2015

As announced in Bulletin 2015-4, we have updated Form 906 to increase ease of customer use. Seller/Servicers are now given the option to request read-only access for all of their Seller/Servicer numbers without having to list all of those numbers. After access to Loan Coverage AdvisorSM has been granted, it is the responsibility of the Seller/Servicer to review its access and to advise Freddie Mac if its Seller/Servicer access is not complete.

Sections 2.27 and 51.28 have also been updated for additional clarity and to specify that Seller/Servicers are responsible for confirming their Seller/Servicer numbers are:

- Reported to Freddie Mac on Form 906, and
- Reported to the Seller/Servicer pursuant to Form 906

Remittance of third-party foreclosure sale proceeds

Effective May 18, 2015

To clarify updates made to the Guide with Bulletin 2015-2, we are further updating our requirements in Section 66.37 to state that the Servicer must instruct the foreclosure counsel conducting the foreclosure sale to remit the third-party foreclosure sale proceeds (i.e., sale proceeds without any netting by foreclosure counsel of their fees and/or costs from the sale proceeds check) 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.

Filing IRS Form 1099-C, *Cancellation of Debt*

We are updating Section 55.3.1(a) to clarify the instructions for Servicers that file IRS Form 1099-C in coordination with IRS Form 1099-A. We are clarifying that Servicers also must complete box 4, "Description of debt," to meet their IRS Form 1099-A obligations. In addition, we are clarifying the identifiable events under Section 55.3.1(d) by removing the identifiable event "expiration of a nonpayment testing period" because it does not apply to Freddie Mac.

Guide Snapshot PDFs

For Seller/Servicer convenience, we have recently published the [March 17, 2015 Guide Snapshot PDF](#), which includes two comprehensive files:

- A PDF file of the entire Guide, including a table of contents, easy-to-use navigational bookmarks and highlighting designating updates made to the Guide since December 18, 2014, the date of the last Guide Snapshot PDF
- A PDF file containing all of the Bulletins issued from January through March 2015

All Guide Snapshot PDFs are available at <http://www.freddiemac.com/singlefamily/guide/bulletins/snapshot.html>. As a reminder, these PDFs are not official versions of the Guide.

REVISIONS TO THE GUIDE

The revisions included in this Bulletin impact the following:

- Chapters 55, 64, 66, 71 and S84
- Form 1065A
- Directories 3, 5 and 6

For a detailed list of the Guide updates associated with this Bulletin and the topics with which they correspond, refer to the Bulletin 2015-5 (Servicing) Guide Updates Spreadsheet available at http://www.freddiemac.com/singlefamily/guide/docs/bl1505_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 and select "Servicing."

Sincerely,



Yvette W. Gilmore
Vice President
Servicer Performance Management