



Bulletin

TO: Freddie Mac Sellers and Servicers

February 2, 2016 | 2016-1

SUBJECT: SELLING REPRESENTATION AND WARRANTY FRAMEWORK – INDEPENDENT DISPUTE RESOLUTION

Freddie Mac, jointly with Fannie Mae, and at the direction of the Federal Housing Finance Agency (FHFA), is announcing the Independent Dispute Resolution (IDR) process, which completes the planned scope for the selling representation and warranty framework – origination defects and remedies (the "remedies framework"). This also represents completion of the development of the overall representation and warranty framework, which was documented in the following Bulletins:

- Bulletin 2012-18: New Representation and Warranty Framework
- Bulletin 2014-8: Selling Representation and Warranty Framework Updates
- Bulletin 2014-21: Selling Representation and Warranty Framework Life-of-Loan Exclusions
- Bulletin 2015-17: Origination Defects and Remedies

The IDR process is specifically designed to address alleged loan-level breaches of selling representations or warranties that remain unresolved after completion of the appeals process. The IDR process will not replace the Government Sponsored Enterprises' (GSEs) current quality control and related appeal processes, but will allow a neutral third party to resolve demands that remain unresolved after the appeal and escalation processes have been exhausted.

Later this year, Freddie Mac will update the appeal and escalation processes to more clearly describe the opportunities for a Seller/Servicer to appeal a repurchase demand as well as an opportunity for escalation to management in order to resolve as many disputes as possible before any IDR process begins.

Seller/Servicers remain responsible for underwriting and delivering investment quality Mortgages in accordance with the terms of the *Single-Family Seller/Servicer Guide* ("Guide") and other Purchase Documents. Additionally, the refined appeal and IDR process described in this Bulletin applies only to selling-related disputes and does not affect any Servicing duties, responsibilities, obligations, or change the Servicing appeal process at this time. However, it is anticipated that an IDR process will become available for Servicing-related disputes in the future.

EFFECTIVE DATE

The IDR process will be available for all Mortgages with Freddie Mac Settlement Dates on and after **January 1, 2016**.

BACKGROUND

Over the last several years the GSEs, at the direction of FHFA, introduced and refined the selling representation and warranty framework and recently introduced the remedies framework. As part of this effort, we listened closely to Seller/Servicer concerns about the mortgage repurchase process and understand the need to address these concerns in ways that are mutually satisfactory.

The IDR process announced in this Bulletin provides Seller/Servicers an opportunity to elect a final, binding resolution to disputes regarding loan-level origination defects through a process that is more streamlined and cost-efficient than litigation. While most disputes will likely be resolved through the existing appeals and escalation processes, and the IDR process is not expected to be used with frequency, there is value for both Seller/Servicers and Freddie Mac in having an established process with clear expectations for the parties involved. These changes are anticipated to help Seller/Servicers to manage risk more effectively.

OVERVIEW OF THE APPEAL AND ESCALATION PROCESS

The first step in the process begins when Freddie Mac identifies a significant defect and issues a demand for repurchase or other remedy to a Seller/Servicer. Freddie Mac has an obligation to support the claim of a significant defect in accordance with the revised requirements recently published in Bulletin 2015-17.

The Seller/Servicer then has an opportunity, within certain time limits and in the manner outlined in the Guide, to correct the defect or appeal the demand. The Seller/Servicer has the obligation to support its appeal or correction with documentation that meets the requirements of the Guide.

If the dispute is not resolved through the initial appeal from the Seller/Servicer and corresponding response from Freddie Mac, the process continues through a second opportunity for the Seller/Servicer to appeal, rebut, or provide further evidence that the defect does not exist or has been corrected. For a much smaller group of Mortgages not resolved by the end of the second appeal, an escalation process provides another opportunity for resolution.

If the dispute is not resolved after all those steps are completed, then, if elected by the Seller/Servicer or Freddie Mac, the IDR process will be the final step in the appeal and escalation process.

OVERVIEW OF THE IDR PROCESS

The IDR process will be available to all active Seller/Servicers. Seller/Servicers that have been suspended, disqualified or terminated are ineligible to participate in IDR. In addition, the IDR process will not be available to Seller/Servicers that have:

- Failed to timely comply with an IDR award related to any Mortgage (or Mortgages) that have been through the IDR process
- Failed to timely comply with any remedy request after the time for challenging the remedy request through the appeals and escalation processes has expired, or
- Any outstanding amount past due to the IDR administrator

The IDR process will include the following components:

- Prescribed timelines for initiating the process, selecting a neutral arbitrator and conducting administrative and planning conference calls
- · Standards for case packages that must be prepared
- An option for each party to use legal counsel and subject matter experts
- A hearing with an arbitrator and representatives from the Seller/Servicer and Freddie Mac conducted by telephone or video conference
- A process for creating a collective proceeding for a group of Mortgages that involve similar disputes ("expanded proceedings") with the agreement of Freddie Mac and the Seller/Servicer
- Written award and brief opinion provided by the arbitrator; and
- Reimbursement for certain costs and expenses by the non-prevailing party to the prevailing party

The arbitrator will be making the final determination about whether a defect existed at the time IDR commenced. The written award from the arbitrator will be final and binding upon and enforceable against the parties.

In addition to resolution of the demand, the party that does not prevail at the hearing will be responsible for paying the prevailing party a "Cost and Fee Award" in the amount of 10% of the unpaid principal balance of the related Mortgage at the time the Mortgage was acquired. If the parties mutually agree to expanded proceedings to cover multiple Mortgages, then the parties will negotiate an appropriate Cost and Fees Award before the IDR process commences.

GUIDE UPDATES

Specific changes related to the incorporation of the IDR process, including support for the arbitrator's authority to make conclusive and binding decisions, and changes to the broader appeals process will be made to the Guide in the coming months.

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,

Christina K. Boyle Senior Vice President

Single-Family Sales and Relationship Management

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