



TO: Freddie Mac ServicersJuly 13, 2016 | 2016-13

SUBJECT: SERVICING UPDATES

This Guide Bulletin announces:

Freddie Mac Default Legal Matters and other litigation

- Additional detail on reimbursable [attorney fees related to foreclosure sale postponements](#)
- Revisions related to [filing for relief from an automatic stay of bankruptcy – October 12, 2016](#)
- Updates concerning when Freddie Mac Legal Division [written approval must be obtained for certain legal actions and strategies](#)

Loss mitigation property valuation requirements

- Updates to [property valuation requirements](#) when evaluating Borrowers for certain loss mitigation options – **October 12, 2016**

Foreclosure and post-foreclosure

- The [elimination of the requirement to suspend foreclosure proceedings](#) in certain instances
- A clarification to the [remittance requirements for third-party foreclosure sales](#)
- Updates to specify that recovery vendors retained by Freddie Mac will provide a [letter of authorization when requesting documents](#)

Senior Subordinate Mortgages

- New requirements for Concurrent and Subsequent [Transfers of Servicing involving Senior Subordinate Mortgages](#) or Mortgages that Freddie Mac purchased for the purpose of transfer to a Senior Subordinate Trust – **New**

Reimbursement of expenses and payment of incentives

- A reminder that [Servicers must be set up to receive reimbursement of expenses and payment of incentives via Automated Clearing House \(ACH\) credit entries into their commercial checking accounts](#) no later than **August 1, 2016**

EFFECTIVE DATE

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

FREDDIE MAC DEFAULT LEGAL MATTERS AND OTHER LITIGATION**Foreclosure sale postponements**

We are updating Guide Section 9301.28 to provide greater detail related to foreclosure sale postponements and attorney fees for actions required to postpone a foreclosure sale.

Foreclosure attorney fees for actions required to postpone the foreclosure sale are included in the attorney's fees listed in Guide Exhibit 57A when complying with the requirements in Subsections 9301.28(a), (b), (c) and (d). Additionally, with prior written approval from Freddie Mac, a Servicer may be reimbursed foreclosure attorney fees that exceed the expense limits in Exhibit 57A. To obtain written approval from Freddie Mac, the Servicer must submit a request for pre-approval (RPA) using the RPA functionality in the Freddie Mac Reimbursement System.

Guide impacts: Sections 9301.28 and 9701.11

Filing for relief from the automatic stay of bankruptcy

Effective October 12, 2016

Servicers must comply with the revised requirements below on and after **October 12, 2016**; however, Servicers are encouraged to implement these changes as early as possible.

In response to Servicer feedback, and in an effort to increase Servicer efficiencies when Servicing Mortgages subject to bankruptcy proceedings, we are updating our requirements related to filing for relief from the automatic stay of bankruptcy.

The Servicer must instruct bankruptcy counsel to file for relief from the automatic stay in accordance with the table below:

When to Instruct Bankruptcy Counsel to File for Relief from the Automatic Stay		
Bankruptcy petition	For Mortgages delinquent at the time of bankruptcy filing	For Mortgages that become delinquent subsequent to bankruptcy filing
Chapter 7	<p>Current:</p> <ul style="list-style-type: none"> If the Borrower is at least 30 days delinquent, at the same time the Servicer refers the bankruptcy case to counsel <p>New:</p> <ul style="list-style-type: none"> If the Borrower is at least 60 days delinquent, at the same time the Servicer refers the bankruptcy case to counsel If the Borrower is less than 60 days delinquent, no later than the 60th day of Delinquency 	<p>Current:</p> <ul style="list-style-type: none"> After the Borrower becomes 30 days delinquent <p>New:</p> <ul style="list-style-type: none"> No later than the 60th day of Delinquency
Chapters 11, 12 or 13	<ul style="list-style-type: none"> When the Borrower misses his or her second post-petition and/or plan payment to either the Servicer or the trustee <p>(No change)</p>	<p>Current:</p> <ul style="list-style-type: none"> After the Borrower becomes 45 days delinquent in payments to either the Servicer or the trustee <p>New:</p> <ul style="list-style-type: none"> When the Borrower misses his or her second post-petition and/or plan payment to either the Servicer or the trustee

Guide impacts: Sections 9401.1, 9401.3, 9401.6, 9401.7 and 9401.8

Requesting Freddie Mac's approval for certain legal actions and strategies

To ensure that Freddie Mac's Legal Division is aware of actions that may pose significant legal or reputational risk to Freddie Mac, Servicers are reminded that they must obtain written approval from the Freddie Mac Legal Division (Nonroutine_litigation@freddiemac.com) prior to initiating or intervening in certain legal actions and strategies.

Because of the evolving nature of default-related litigation, we are enhancing the Guide to provide that approval must be obtained by the Servicer from the Freddie Mac Legal Division when:

- Filing a new legal action, other than a Freddie Mac Default Legal Matter, on behalf of Freddie Mac

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- Filing a motion to intervene in a pending legal action on behalf of Freddie Mac
 - Appealing or otherwise challenging a judgment in any foreclosure or bankruptcy proceeding, or any legal action in which Freddie Mac is a named party
 - Filing a notice of removal to federal district court for any legal action in which Freddie Mac is a named party
 - Asserting any position in a legal action that relates to Freddie Mac's status as a Government Sponsored Enterprise (GSE), its conservatorship, or its conservator, FHFA
 - Propounding discovery requests or otherwise serving or providing any discovery responses on behalf of Freddie Mac

Guide impacts: Sections 8601.24, 8601.25, 9402.1, 9402.2, 9402.3 and 9402.4

LOSS MITIGATION PROPERTY VALUATION REQUIREMENTS

Effective October 12, 2016

Servicers must comply with the revised requirements below on and after **October 12, 2016**; however, Servicers are encouraged to implement these changes as early as possible.

To provide greater clarity to Servicers regarding obtaining property valuations when evaluating Borrowers for certain loss mitigation options, we are updating the Guide as follows:

- Clarifying that, when evaluating the Borrower for certain loss mitigation options, in the event the Servicer had previously obtained a Freddie Mac-compliant property valuation, the Servicer should not obtain a new property valuation and must use the Freddie Mac-compliant property valuation if it is less than 90 days old
- With respect to certain charge-off recommendations, the Servicer must obtain and submit a Hazard Distressed BPO as supporting documentation to Freddie Mac, and it must be less than 90 days old on the date the Servicer makes the recommendation
- With respect to workout Mortgage assumption recommendations, if an automated value is not available in BPOdirect® or the Mortgage is secured by a 2- to 4-unit property or a Manufactured Home, then the Servicer must order a property valuation in accordance with Section 9202.17 and subject to the requirements of the chart in Section 9206.8, and it must be less than 90 days old on the date the Servicer makes the recommendation

Guide impacts: Sections 9202.19, 9206.8, 9207.4, 9209.5 and 9210.3

FORECLOSURE AND POST-FORECLOSURE

Foreclosure suspension requirement elimination

In Bulletin 2015-22, we announced updated Borrower contact and solicitations requirements, which amongst other things included eliminating the attorney post-referral to foreclosure solicitation letter that was required to be sent within five Business days following foreclosure referral. In connection with that announcement, we are updating Section 9301.28 to eliminate the requirement that the Servicer must suspend foreclosure proceedings for up to an additional 30 days if:

- The Mortgage is subject to judicial proceedings, and
- The Servicer receives a complete Borrower Response Package within 30 days of referral to foreclosure and greater than 37 days prior to the foreclosure sale date

This suspension period requirement was previously in place to allow the Servicer time to evaluate the Borrower Response Package and notify the Borrower of the decision.

With this change, in these instances, the Servicer is not required to delay legal action to conduct an evaluation of the package if the Servicer receives a complete Borrower Response Package for:

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- Mortgages that are not secured by Primary Residences, and
 - Mortgages secured by Primary Residences with a complete Borrower Response Package submitted after the First Complete Borrower Response Package

Guide impact: Section 9301.28

Third-party foreclosure sale remittance requirements

We are updating Section 8303.3(b) to align the remittance requirements for third-party foreclosure sales with the requirements provided in Section 8303.10. Servicers should remit the principal and interest to liquidate the mortgage debt as opposed to remitting the sale proceeds.

Guide impacts: Section 8303.3

Deficiency recovery vendor documentation requests

We are updating the Guide to advise Servicers that the recovery vendors retained by Freddie Mac will provide a letter of authorization when requesting documents. This update is being made to provide Servicers assurance that the document requests are being made with Freddie Mac's authorization.

Guide impacts: Sections 9210.5 and 9601.1

TRANSFERS OF SERVICING FOR SENIOR SUBORDINATE MORTGAGES

We are retiring the requirements in Section 8601.12 in their entirety and replacing them with new requirements for Concurrent and Subsequent Transfers of Servicing involving Senior Subordinate Mortgages or Mortgages that we purchased for the purpose of transfer to a Senior Subordinate Trust.

The new requirements greatly enhance the transferability of Mortgage Servicing for such Mortgages by allowing their transfer to Seller/Servicers who are not "Participating Seller/Servicers" at the time of a Concurrent or Subsequent Transfer of Servicing. Such Transfers of Servicing remain subject to the Guide's requirement to obtain Freddie Mac's prior written approval. ("Participating Seller/Servicers" are Seller/Servicers who have entered into agreements to sell Mortgages to Freddie Mac with the understanding that Freddie Mac may then transfer ownership of such Mortgages to a Senior Subordinate Trust, giving rise to the Servicer's obligation to service those Mortgages in accordance with the Senior Subordinate Mortgage Servicing requirements in Guide Chapter 8601.)

Retirement of intra-Servicer transfer of Mortgage Servicing requirements

We are retiring the intra-Servicer transfer of Mortgage Servicing requirements in Section 8601.12. These requirements obligated Participating Seller/Servicers to separately track Mortgages subject to the Servicing requirements in Chapter 8601 (i.e., Senior Subordinate Mortgages and Mortgages we intend to transfer, but have not yet transferred, to a Senior Subordinate Trust) from Freddie Mac-Owned or Guaranteed Mortgages that are not subject to Chapter 8601.

To separately track these Mortgages, each Participating Seller/Servicer serviced these Mortgages under a Freddie Mac provided "Senior Subordinate Servicer number."

To ensure the distinct identification of such Mortgages, Participating Seller/Servicers were required to transfer Servicing with respect to any Mortgage that was no longer subject to the Servicing requirements in Chapter 8601 (such as those that Freddie Mac repurchased from a Senior Subordinate Trust) to another servicer number under which the Participating Seller/Servicers serviced Mortgages that were not subject to the requirements in Chapter 8601. Such a Transfer of Servicing from the Senior Subordinate Servicer number to another Servicer number was referred to as an "intra-Servicer transfer."

The use of a Senior Subordinate Servicer number to separately track Mortgages subject to the requirements in Chapter 8601 from those that are not, is no longer a Servicing requirement and, accordingly, future Participating Seller/Servicers will not be required by Freddie Mac to use a Senior Subordinate Servicer number. Current Participating Seller/Servicers will not be required to conduct intra-Servicer Transfers of Servicing for the purpose of separately tracking Mortgages.

New Concurrent and Subsequent Transfer of Servicing requirements

We have replaced the intra-servicer transfer requirements in Section 8601.12 with new requirements for Concurrent and Subsequent Transfers of Servicing that involve Mortgages whose ownership Freddie Mac has transferred to a Senior Subordinate Trust and/or Mortgages that Freddie Mac purchased for the purpose of transfer to a Senior Subordinate Trust.

Requirements for Sellers/Transferor Servicers

Under the new requirements, the Seller/Transferor Servicer must use the updated Guide Form 960, *Agreement for Concurrent Transfer of Servicing of Single-Family Mortgages*, or updated Form 981, *Agreement for Subsequent Transfer of Servicing of Single-Family Mortgages*, to inform the Transferee Servicer and Freddie Mac of the following:

- The inclusion, in the Transfer of Servicing, of any Mortgages that are being sold or were sold to Freddie Mac for the purpose of transfer to a Senior Subordinate Trust
- For any such Mortgage that has yet to transfer to a Senior Subordinate Trust, whether the Mortgage was the subject of any notice from Freddie Mac informing the Transferor Servicer of a prospective date of transfer to a Senior Subordinate Trust
- For any such Mortgage that has transferred to a trust, the name of the Senior Subordinate Trust

The Seller/Transferor Servicer also must provide the Transferee Servicer with copies of the provisions of any agreement under which Mortgages included in the Transfer of Servicing, if any, are being sold or were sold to Freddie Mac for the purpose of transfer to a Senior Subordinate Trust. For these Mortgages, the Seller/Transferee Servicer also must provide copies of any notice from Freddie Mac informing the Transferor Servicer of a prospective date of transfer to a Senior Subordinate Trust and inform the Transferee Servicer of the status of any ongoing or upcoming post-funding quality control review.

Requirements for Transferee Servicers

The Transferee Servicer, in turn, must comply with the requirements in the provisions of any agreements provided by the Seller/Transferor Servicer in accordance with the preceding paragraph and the newly revised Section 8601.12. These requirements may include, but are not limited to, faster delivery of loan files for post-funding quality control reviews and delivery of a greater percentage of loan files than other typical quality control reviews. In addition, Transferee Servicers of such Mortgages must have entered into a Document Custodian agreement using a version of Form 1035 or Form 1035DC that was revised on or after February 2015 before the Transfer of Servicing may take place.

Refer to Bulletin 2015-5 for additional background on Senior Subordinate Mortgages and Freddie Mac's rationale for conducting transfers of these Mortgages to a Senior Subordinate Trust.

Guide impacts: Sections 8601.1, 8601.3 and 8601.12 and Forms 960 and 981

REMINDER: REIMBURSEMENT OF EXPENSES AND PAYMENT OF INCENTIVES

Effective August 1, 2016

As a reminder, Servicers must be set up to receive reimbursement of expenses and payment of incentives via ACH credit entries into their commercial checking accounts no later than **August 1, 2016**. Servicers must submit the authorization agreement (following the steps outlined in Exhibit 98) at least seven Business Days before August 1, 2016, in order to receive expense reimbursements and incentive payments via ACH credit entries on or after August 1, 2016.

For questions regarding setup, Servicers may contact Freddie Mac at Reimbursement_System_Setup@freddiemac.com. Once Servicers are set up, they may submit any ACH credit-related questions or concerns to Freddie Mac at 104_Expense@freddiemac.com.

For more information, Servicers should review Bulletin 2016-2 or visit the [Reimbursement System](#) web page.

GUIDE UPDATES SPREADSHEET

For a detailed list of the Guide updates associated with this Bulletin and the topics with which they correspond, refer to the Bulletin 2016-13 (Servicing) Guide Updates Spreadsheet available at http://www.freddiemac.com/singlefamily/guide/docs/bll1613_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 option four for Servicing.

Sincerely,

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

Yvette W. Gilmore
Vice President
Servicer Performance Management