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**TO: Freddie Mac Servicers**

December 14, 2016 | 2016-22

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## **SUBJECT: FREDDIE MAC FLEX MODIFICATION**

This Guide Bulletin announces the Freddie Mac Flex Modification. We are implementing this modification jointly with Fannie Mae at the direction of the FHFA to adapt to the improving housing environment while preserving the most effective aspects of our crisis era loan modification programs. The Flex Modification is designed as an affordable modification which will provide significant payment reduction for eligible Borrowers, while maximizing operational simplicity and ease of implementation for our Servicers. It will also provide a cost-effective way for Freddie Mac to avoid unnecessary foreclosures.

On and after October 1, 2017, this new modification will replace the current Freddie Mac Standard and Streamlined Modifications. Upon notification that Freddie Mac's systems have been updated to process and settle Flex Modifications (as described below), Servicers may implement this new modification prior to October 1, 2017. Prior to this notification, Servicers must continue to offer the existing Standard and Streamlined Modifications to eligible Borrowers.

This Bulletin describes the requirements for the Flex Modification, including the [eligibility requirements and exclusions](#), [modification terms](#), [requirements for an offer for a Flex Modification](#) and [evaluation hierarchy](#).

## **SERVICER IMPLEMENTATION**

### **Mandatory implementation**

Servicers must begin Borrower evaluations for the Flex Modification using the criteria provided in the Guide no later than **October 1, 2017**. Refer to the [Eligibility Requirements and Exclusions](#) and [Determining the Terms of the Flex Modification](#) tables of this Bulletin for details on the criteria.

### **Early implementation**

Prior to October 1, 2017, Freddie Mac's systems, including Workout Prospector® and EDR, will be updated to process, settle and report Flex Modifications. We will notify Servicers in a future Bulletin when those updates will take effect. Servicers are not permitted to implement the Flex Modification until the systems are updated.

### **Expiration of the Freddie Mac Standard and Streamlined Modifications**

Once a Servicer begins evaluating Borrowers for the Flex Modification, whether as of the mandatory implementation date or upon early implementation, the Servicer must discontinue evaluations for Standard and Streamlined Modifications.

## **ELIGIBILITY REQUIREMENTS AND EXCLUSIONS**

The Flex Modification eligibility requirements and exclusions are similar to the requirements for the Standard and Streamlined Modifications, with some minor updates to the eligibility exclusions.

Borrowers being evaluated for the Flex Modification must meet the following requirements:

## Flex Modification Eligibility Requirements and Exclusions

<b>Borrower eligibility</b>	<p>The Borrower must:</p> <ul style="list-style-type: none"> <li>• Submit a complete Borrower Response Package, and <ul style="list-style-type: none"> <li>➢ Have an eligible hardship as described in Guide Section 9202.2. The hardship must currently be causing or be expected to cause a long-term or permanent decrease in the Borrower’s income or increase in the Borrower’s expenses. NOTE: Unemployment is considered a temporary hardship. Servicers must consider unemployed Borrowers for unemployment forbearance under Sections 9203.22 through 9203.24.</li> <li>➢ Have verified income. Unemployment benefits may not be considered as a source of income for a modification.</li> </ul> </li> <li>• Be 60 days or more delinquent. However, a Borrower who is current or less than 60 days delinquent (i.e., less than three monthly payments past due) <b>and</b> occupies the property as a Primary Residence is also eligible provided the Borrower is first determined to be in imminent default in accordance with Section 9206.7.</li> </ul>
<b>Streamlined eligibility for certain Borrowers</b>	<p>Certain eligibility exceptions apply for a Borrower who:</p> <ul style="list-style-type: none"> <li>• Is 90 days delinquent or greater; or</li> <li>• Has a Step-Rate Mortgage and the Borrower: <ul style="list-style-type: none"> <li>➢ Becomes 60 days delinquent within the 12 months following the first payment due date resulting from an interest rate adjustment; and</li> <li>➢ Has not submitted a complete Borrower Response Package</li> </ul> </li> </ul> <p>For these Borrowers, the Servicer is not required to adhere to the requirements in the “Borrower eligibility” row above. In these instances, a Borrower Response Package is not required, and the Servicer is not required to confirm a Borrower’s hardship or income. The Servicer must continue to comply with the requirements in the “Mortgage eligibility” and “Eligibility exclusions” rows below to determine eligibility.</p> <p>NOTE: Additional solicitation requirements may also be applicable to this population of Borrowers. Refer to the <a href="#">Streamlined Offer for a Flex Modification</a> section of this Bulletin.</p>
<b>Mortgage eligibility</b>	<p>The Mortgage must:</p> <ul style="list-style-type: none"> <li>• Have been originated at least 12 months prior to the evaluation date for the Flex Modification</li> <li>• Be a conventional First Lien Mortgage currently owned or guaranteed in whole or in part by Freddie Mac</li> </ul> <p style="text-align: center;"><b><i>Principal and interest (P&amp;I) payment reduction</i></b></p> <p>The Flex Modification must result in a P&amp;I payment that is less than or equal to the pre-modification P&amp;I. (Refer to Section 9206.10 for additional payment reduction requirements that may apply.)</p>

## Flex Modification Eligibility Requirements and Exclusions

When determining whether the modification results in a P&I payment that is less than or equal to the pre-modification P&I payment, the Servicer must consider the following:

- If the Borrower has been granted interest rate relief under the Servicemembers Civil Relief Act (SCRA), the Servicer must consider the P&I payment in effect prior to the date the SCRA relief was granted rather than the temporarily reduced monthly payment based on the SCRA interest rate cap
- If the Mortgage being modified is an ARM or an interest-only Mortgage, the Servicer must consider the P&I payment, or interest only payment, as applicable, in effect at the time the Servicer determines eligibility for a Flex Modification Trial Period Plan

### ***Mortgages subject to indemnification agreements***

If the Mortgage is subject to an indemnification agreement and is otherwise eligible under the requirements of Guide Chapter 9206, the Servicer has the discretion to approve the mortgage modification provided the following conditions are met:

- The modified Mortgage retains its credit enhancement
- If the Servicer is not the credit enhancement provider, the Servicer must first obtain in writing any required approval under the terms of the credit enhancement from the entity providing the enhancement to enter into a modification agreement that complies with the requirements of Chapter 9206; and
- The Servicer remits to Freddie Mac an annual payment for the amount of all modification-related costs (e.g., interest rate shortfall) as calculated by Freddie Mac pursuant to Freddie Mac's "Modification Loss Amount" methodology. The Modification Loss Amounts due will be calculated on a monthly basis, and billed on an annual basis for the life of the modified Mortgage. If the Mortgage is subject to a partial indemnification, each year the Servicer will be billed the appropriate percentage of the Modification Loss Amount that corresponds with the partial indemnification agreement. Modification Loss Amounts will be determined by Freddie Mac in accordance with a process described in Bulletin 2016-5.

NOTE: Pursuant to Section 9204.6, the Servicer is not eligible to receive an incentive for completing a modification on a Mortgage that is subject to an indemnification agreement.

### ***Mortgages secured by leasehold estates***

If the Mortgage is secured by a leasehold estate, the term of the lease (or any exercised option to renew the lease, or any renewal options that are enforceable by the leasehold mortgagee, whichever is applicable) must not terminate earlier than five years after the maturity date of the proposed modified Mortgage. In the event that the current term of the lease (or applicable renewal options) terminates earlier than five years after the maturity date of the proposed modified Mortgage, the term of the lease must be renegotiated in

Flex Modification Eligibility Requirements and Exclusions	
	order to satisfy this requirement prior to offering the Borrower a Trial Period Plan.
<b>Eligibility exclusions</b>	<p>The following Mortgages and Borrowers are ineligible for the Flex Modification:</p> <ul style="list-style-type: none"> <li>• FHA, VA and Guaranteed Rural Housing Mortgages</li> <li>• Mortgages subject to recourse</li> <li>• Mortgages secured by second homes or non-owner occupied properties (i.e., Investment Properties) where the Borrower is current or less than 60 days delinquent</li> <li>• Mortgages that have been previously modified three or more times</li> <li>• Mortgages previously modified with the Flex Modification terms determined in accordance with Section 9206.10(a) where: <ul style="list-style-type: none"> <li>➢ The Mortgage became 60 or more days delinquent within 12 months of the Modification Effective Date, and</li> <li>➢ The Borrower has not brought the Mortgage current following the Delinquency</li> </ul> </li> <li>• Borrowers who, within 12 months of the evaluation date, failed a Flex Modification Trial Period Plan and the terms of that Trial Period Plan were determined in accordance with Section 9206.10(a)</li> <li>• Mortgages that are subject to an approved short sale or deed-in-lieu of foreclosure transaction</li> <li>• Borrowers who are currently performing under another Trial Period Plan, forbearance plan or repayment plan</li> <li>• Mortgages that are currently subject to an unexpired offer to the Borrower for another modification or other alternative to foreclosure, such as a forbearance or repayment plan</li> </ul>

## DETERMINING THE TERMS OF THE FLEX MODIFICATION

Servicers must use different modification terms for the Flex Modification than those used to determine the Standard Modification. The terms for the Flex Modification are described below:

Determining Flex Modification Terms	
<b>Post-modification MTMLTV ratio <math>\geq</math> 80%</b>	<p>The Servicer must complete all four steps below:</p> <p>Step 1: Capitalize arrearages in accordance with Section 9206.15</p> <p>Step 2: Set the interest rate to the applicable rate for the Mortgage type. For Borrowers with:</p>

## Determining Flex Modification Terms

- Fixed-rate Mortgages (including Step-Rate Mortgages or ARMs with no subsequent steps or adjustments), set the interest rate to the lesser of the Flex Modification rate or the pre-modification interest rate
- Step-Rate Mortgages or ARMs with subsequent steps or adjustments or further steps still remaining, set the interest rate to the lesser of the Flex Modification rate or the maximum step-rate/lifetime cap note rate

Step 3: Extend the amortization term to 480 months from the Modification Effective Date

Step 4: Forbear principal in an aggregate amount that does not exceed the Forbearance Cap to create an MTMLTV ratio as close to, but not below, 100%

### **Additional forbearance for Mortgages that are less than 90 days delinquent**

If the Mortgage is less than 90 days delinquent on the date the Borrower submitted a complete Borrower Response Package and the Servicer did not reach a minimum of 20% P&I payment reduction and a post-modification housing expense-to-income ratio (PMHTI) ratio of 40% or less, as determined in accordance with Section 9206.5(c), the Servicer must continue to forbear principal, subject to the Forbearance Cap, down to no lower than an 80% MTMLTV ratio until a 20% P&I payment reduction and a PMHTI ratio of 40% or just below 40% is achieved.

If the Servicer reaches the Forbearance Cap without achieving a minimum of 20% P&I payment reduction or a PMHTI ratio at or below 40%, the Servicer must provide the offer based on the terms generated, provided that the Borrower is otherwise eligible for the modification.

**Note:** See an exception to PMHTI ratio requirements for a Borrower with a Step-Rate Mortgage who is eligible for a streamlined offer in the [Streamlined Offer for a Flex Modification](#) section of this Bulletin.

### **Additional forbearance for Mortgages that are 90 or more days delinquent**

If the Mortgage is 90 or more days past due at the time of evaluation and the Servicer did not achieve a 20% P&I payment reduction, the Servicer must continue to forbear principal, subject to the Forbearance Cap, down to as low as an 80% MTMLTV ratio until a 20% P&I payment reduction is achieved. If the Servicer reaches the Forbearance Cap without achieving a 20% P&I payment reduction, the Servicer must provide the offer based on the terms generated, provided that the Borrower is otherwise eligible for the modification.

Determining Flex Modification Terms	
<b>Post-modification MTMLTV ratio &lt; 80%</b>	<ul style="list-style-type: none"> <li>• Capitalize the arrearages in accordance with Section 9206.15 and increase the term of the Mortgage to 480 months from the Modification Effective Date</li> <li>• If the Mortgage is an ARM or a Step-Rate Mortgage with subsequent interest rate adjustments remaining, convert the interest rate to the lesser of the maximum step-rate or the Flex Modification rate</li> <li>• If the Mortgage is a Fixed-rate Mortgage (including Step-Rate Mortgages or ARMs with no subsequent adjustments), the interest rate must remain fixed at the existing rate.</li> </ul>

## STREAMLINED OFFER FOR A FLEX MODIFICATION

When a Borrower becomes 90 days delinquent, or when a Borrower with a Step-Rate Mortgage becomes 60 days delinquent within the 12 months following the first payment due date resulting from an interest rate adjustment, the Servicer must determine if the Borrower is eligible for a proactive offer for a streamlined Flex Modification in accordance with Section 9206.5 and, if eligible, solicit the Borrower for that modification in accordance with Section 9102.5(a). Servicers may continue to solicit eligible Borrowers for the Flex Modification at their discretion in accordance with the requirements in Sections 9102.5 and 9201.2.

If the Borrower is approved for a streamlined Flex Modification, the Servicer must send the Borrower a streamlined Flex Modification Trial Period Plan Notice and applicable streamlined Flex Modification solicitation letter in accordance with the requirements described in Section 9102.5(a). If the Borrower is approved for a streamlined Flex Modification due to an Eligible Disaster in accordance with the requirements of Section 9206.5(e), the Servicer must send the Borrower the streamlined Flex Modification Trial Period Plan Notice, as amended for Eligible Disasters, and the streamlined Flex Modification post-disaster forbearance solicitation letter.

The applicable Trial Period Plan Notices and solicitation letters set forth in Guide Exhibits 93, 1191, 1191A and 1191B will be updated to reflect the Flex Modification in a future Bulletin. Until a new letter template has been created for streamlined offers for the Flex Modification, Servicers may use Exhibit 1191, *Streamlined Modification Solicitation Letter*, or Exhibit 1191B, *Streamlined Modification Solicitation Letter for Day 60 Rate Reset*, as applicable, and must amend the applicable letter template as necessary to conform to the Flex Modification terms and applicable Guide requirements.

For a Borrower with a Step-Rate Mortgage only, if the Borrower has submitted a complete Borrower Response Package prior to becoming 90 days delinquent, and has not yet accepted the streamlined offer for a Flex Modification, the Servicer must complete its review of the package for all alternatives to foreclosure in accordance with the Guide. However, if the Borrower has accepted the existing Trial Period Plan offer, the Servicer must determine if the Borrower is eligible for additional payment relief as a result of the PMHTI ratio component of the Flex Modification terms described in Section 9206.10. If the Borrower is eligible for additional payment relief, then the Servicer must permit the Borrower to continue making the existing Trial Period Plan payments, but must update the modification agreement to reflect the lower payment amount. The post-modification P&I must reflect the lower payment amount in these instances.

## EVALUATION HIERARCHY

Prior to Servicer implementation of the Flex Modification, the Servicer must follow the existing loss mitigation evaluation hierarchy as described in Section 9201.2. Once a Servicer has implemented the Flex Modification, it must discontinue evaluating Borrowers for the Standard and Streamlined Modifications, and instead evaluate Borrowers in accordance with the revised evaluation hierarchy:

- The Servicer must consider eligible Borrowers for available refinance options

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- If a reinstatement or relief option as provided in Chapter 9203 is not appropriate based on Borrower circumstances, the Borrower may qualify for a workout option. The Servicer must first consider the Borrower for a Flex Modification in accordance with the requirements of Chapter 9206.
  - If a Borrower is ineligible for, does not accept, or fails to complete the Flex Modification, the Servicer must next consider the Borrower for a short sale pursuant to Chapter 9208
  - If a Borrower is ineligible for a short sale or a short sale is not a viable option, the Servicer must next consider the Borrower for a deed-in-lieu of foreclosure in accordance with the requirements of Chapter 9209

## OTHER REQUIREMENTS

Other requirements for the Flex Modification include:

- **Mortgage insurance:** If the Mortgage is subject to mortgage insurance, the Servicer must obtain approval from the MI for the Flex Modification prior to offering the modification to a Borrower
- **Incentives:** The Servicer will be eligible to receive an incentive payment in accordance with the tiered payment structure described in Exhibit 96, *Servicing Incentives and Compensatory Fees*. The incentive payment structure for Flex Modifications will be the same as it currently is for Standard and Streamlined Modifications.
- **Exception processing:** For situations in which a Borrower does not meet the eligibility requirements for a Flex Modification, and the Servicer believes it to be the best option for addressing the Delinquency, the Servicer may submit a recommendation to Freddie Mac for review via the exception request path in Workout Prospector. Refer to Section 9206.10 for additional information on Workout Prospector.
- **Capitalization and Extension Modification for Disaster Relief (“Disaster Relief Modification”):** The requirements for determining interest rates for the Disaster Relief Modification have also been updated to reflect the updates described in this Bulletin. Refer to Section 9206.4 for additional details.

## REMINDER: FREDDIE MAC MYCITY MODIFICATION, PRINCIPAL REDUCTION MODIFICATION AND HOME AFFORDABLE MODIFICATION PROGRAM EXPIRATIONS

As a reminder, the MyCity Modification, Principal Reduction Modification and Home Affordable Modification Program (HAMP®) expire at the end of 2016.

All MyCity Modification Trial Period Plans must have had a start date of no later than December 1, 2016. All solicitations and notices for the Principal Reduction Modification must be sent on or before December 31, 2016. Borrowers must submit a complete Borrower Response Package no later than December 30, 2016 to be evaluated for HAMP. Servicers must complete such evaluations within 30 days of the Servicer’s receipt of the complete Borrower Response Package.

As an additional reminder, in connection with the expiration of HAMP, Servicers no longer have the authority to request government monitoring data under Section 9205.16(b) and must cease collection of such data on and after December 31, 2016. As a result, Freddie Mac is retiring Form 710A, *Government Monitoring Data*, and updating Section 9102.5 to remove reference to the collection of government monitoring data with respect to HAMP eligible Borrowers, effective December 31, 2016.

## ADDITIONAL RESOURCES

We have created a web page on FreddieMac.com for the Flex Modification. We encourage Servicers to visit the [Flex Modification web page](#), which includes a [term sheet](#) for the modification. We also encourage Servicers to visit the [Freddie Mac Learning Center](#) for additional Flex Modification resources, which will be available in the first quarter of 2017.

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## REVISIONS TO THE GUIDE

Sections 9201.2 and 9206.5 through 9206.11 have been revised and contain all requirements for the Flex Modification.

The following have been updated to change references from Freddie Mac Standard and/or Streamlined Modifications to the Flex Modification and remove applicable references to HAMP:

- Sections 8404.6, 9101.2, 9101.3, 9102.5, 9203.22, 9204.2, 9204.6, 9205.4, 9206.2, 9206.4, 9206.12, 9207.2, 9211.1, 9301.46 and 9402.3
- Exhibit 96
- The Glossary definition of "PITIAS Payment"

Additionally, we have:

- Moved the requirements for Streamlined Modifications from Section 9206.3 to Section 9206.5(c), with updates made to reflect the Flex Modification
- Deleted Form 710A and removed reference to the collection of government monitoring data for HAMP eligible Borrowers in Section 9102.5, effective December 31, 2016

### Future revisions

Sections 9206.13 and 9206.16 and Exhibits 82 and 83A will be updated once EDR and Workout Prospector have been updated to reflect the Flex Modification.

Exhibits 93, 1191, 1191A and 1191B will be updated to reflect the Flex Modification prior to the mandatory implementation date.

## 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,



Yvette W. Gilmore  
Vice President  
Servicer Performance Management