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**TO: Freddie Mac Servicers**

February 14, 2018 | 2018-2

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## **SUBJECT: SERVICING UPDATES**

This Guide Bulletin announces:

### **Charge-off recommendations**

- Updates to our requirements regarding [charge-off recommendations](#) – **August 1, 2018**

### **Document custody**

- Updates to our [document custody](#) requirements

### **Guide Forms 16SF, Annual Eligibility Certification Report, and 1107SF, Seller/Servicer Change Notification**

- Updates to [Forms 16SF and 1107SF](#)

### **Additional Guide updates and reminders**

- Further updates 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.

## **CHARGE-OFF RECOMMENDATIONS**

### **Effective August 1, 2018; however, Servicers may implement earlier if they are able to do so**

In continuing our efforts to avoid actions that could contribute to neighborhood blight, we are updating our requirements regarding Servicer recommendations of charge-offs to Freddie Mac. Under the direction of the FHFA, Freddie Mac and Fannie Mae are generally aligned in determining when to approve or deny a Servicer's charge-off recommendation.

To utilize charge-offs as an appropriate and responsible loss mitigation tool and to minimize charge-offs of vacant and abandoned properties, where possible, we are:

- Specifying the situations in which, rather than proceeding with foreclosure, a Servicer is required to recommend a charge-off to Freddie Mac
- Updating lien release requirements when Freddie Mac approves a charge-off request; and
- Enhancing the Glossary definition of the term "Risk of Property Ownership"

### **Required charge-off recommendations**

A Servicer must recommend a charge-off to Freddie Mac when the debt secured by the Mortgaged Premises is deemed uncollectible and/or any of the following situations exists:

- A short payoff has been approved by Freddie Mac and a balance remains. A short payoff may result from, among other things:
    - A negotiated settlement with the Borrower, a legal settlement or an agreement to resolve a legal dispute
    - A settlement related to: (i) a Condominium Project termination, or (ii) a unit (Mortgaged Premises) of a Condominium Project that is damaged and its repair is not feasible
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- A court order
  - A Bankruptcy cramdown (Note: Pursuant to Guide Section 9401.8, the Servicer must complete and transmit the final terms of a confirmed bankruptcy cramdown to Freddie Mac via the "Court Mandated Modification" screen in Workout Prospector®); or
  - A receivership
- The Mortgaged Premises is subject to property seizure (refer to Guide Chapter 8402)
  - For any Mortgage not subject to recourse or repurchase obligations under the Purchase Documents, the Servicer determines that it is not practical or possible to complete foreclosure or other enforcement of Freddie Mac's rights under the Note or Mortgage and/or to obtain clear title to the Mortgaged Premises
  - The Servicer identifies a low balance Mortgage with a UPB that is \$5,000 or less, regardless of the equity in the property, and the criteria in both Section 9210.2(1)(a) and (b) are met. (Note: If the Servicer identifies a Mortgage with a UPB that is greater than \$5,000, but the other criteria in Section 9210.2(1)(a) and (b) are met, the Servicer may recommend a charge-off to Freddie Mac.)
  - The Mortgaged Premises is a unit of a Condominium Project and: (i) the project is not presently economically viable, (ii) the project has been terminated or (iii) the unit is damaged and repair of the unit is not feasible
  - The Mortgaged Premises has been impacted by a natural or man-made disaster, or other like circumstance, and rebuilding on the land is determined by the Servicer to be impracticable or impossible
  - The Mortgage is secured by undeveloped land or any above-grade primary structure has been demolished and removed by the Borrower, jurisdiction or other party; and the vacant land (and any remaining outbuilding, if applicable) has been protected from waste, damage and vandalism
  - A third party is willing to accept any risk of liability if it becomes the owner of the property
  - The Mortgaged Premises poses a Risk of Property Ownership to Freddie Mac (as described below)

### **Lien release requirements**

In most cases, when Freddie Mac approves a charge-off request, Freddie Mac will instruct the Servicer to release its lien on the property and cancel the Note as part of the closing of the approved request. Instructions to complete a lien release and cancellation of the Note as part of an approved charge-off request, if any, will be provided for in the approval letter in Workout Prospector.

However, in situations in which future funds are anticipated, Freddie Mac will retain its lien on the property and will instruct the Servicer not to release the lien or cancel the Note on the approval letter in Workout Prospector until such time that funds are received by Freddie Mac.

### **Risk of Property Ownership**

If a Mortgaged Premises poses a Risk of Property Ownership, the Servicer is required to contact Freddie Mac and report the Mortgage to Freddie Mac, even if the Mortgage is not delinquent. We are updating the Glossary definition of the term "Risk of Property Ownership" by providing a new example. The example emphasizes that Freddie Mac must be clearly apprised of the risk of liability to Freddie Mac if it becomes the owner of a property that poses a Risk of Property Ownership at the time that the Mortgage is reported to Freddie Mac. The example is as follows:

There is Risk of Property Ownership if the condition of the Mortgaged Premises, or its immediate surroundings, poses a threat to the health or safety of a property owner (e.g., condemnation), or there is otherwise a situation or presence that is exigent or atypical that would cause a potential property owner to incur extraordinary risk of liability if it becomes the owner of the property.

### **Guide updates**

We are updating Chapter 9210, Sections 8303.13, 8403.1, 8404.2, 8404.4, 8405.1, 8601.3, 8601.26, 9202.5, 9208.2, 9301.4, 9401.2 and 9701.11 and Glossary R-Z and deleting Chapter 8405 as a result of these changes to our requirements regarding charge-off recommendations.

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## DOCUMENT CUSTODY

### Additional Designated Custodian

In November 2017, we began permitting Seller/Servicers to use Wells Fargo Bank, N.A. as a Designated Custodian. Except as stated below with respect to Mortgages sold through the Servicing Released Sales Process, Seller/Servicers have a choice of Designated Custodians: either The Bank of New York Mellon Trust Company, N.A. (“BNYM”) or Wells Fargo Bank, N.A. (“Wells Fargo”).

Seller/Servicers that wish to establish a new Designated Custodian relationship with Wells Fargo must complete new Form 1035WF, *Designated Custodial Agreement: Single Family Mortgages (Wells Fargo Bank, N.A.)*. Once completed, the paper version of the form executed by the Seller/Servicer must be delivered to Wells Fargo at the address provided in Directory 4.

Unless otherwise requested by Freddie Mac, Seller/Servicers that have an existing Form 1035, *Document Custodial Agreement: Single Family Mortgages*, with Wells Fargo Bank and utilize Wells Fargo as Document Custodian:

- Do not need to complete a Form 1035WF
- Are no longer required to monitor the eligibility status of Wells Fargo because Freddie Mac performs that function for Seller/Servicers. However, the requirement of Section 2202.5(b) that a Seller/Servicer notify Freddie Mac within one day of learning of the noncompliance of its Document Custodian (including a Designated Custodian) continues to apply.

Notes for Mortgages sold through the Servicing Released Sales Process must continue to be delivered to BNYM as Designated Custodian.

### Contracting with Document Custodians

In response to Seller/Servicer inquiries, we are updating the Guide to include our requirement on the number of Document Custodians with which each Seller/Servicer number may contract. Seller/Servicers must enter into a Tri-Party Agreement with a Document Custodian for each Seller/Servicer number. The Guide now states that Seller/Servicers may enter into Tri-Party Agreements with two Document Custodians per Seller/Servicer number, provided that at least one of them is a Designated Custodian.

### Glossary updates

We are adding a Glossary definition for the term “Tri-Party Agreement” to refer to the suite of document custodial agreements between Freddie Mac, the Seller/Servicer and Document Custodian(s) (including the Designated Custodians): Forms 1035, 1035DC, *Designated Custodial Agreement: Single Family Mortgages (The Bank of New York Mellon Trust Company, N.A.)*, and 1035WF. We are also updating the Glossary definitions of “Designated Custodian” and “Document Custodian.”

### Document Custodian certification and verification services

In response to Document Custodian inquiries and to increase their efficiency, Freddie Mac may contract with certain Document Custodians to perform certification and/or verification services outside of the United States based on images of original documents. Such Document Custodians must maintain all original documents in a domestic vault and adhere to the strict requirements for information security and safeguarding of Borrowers’ private personal information as required in the Guide and Tri-Party Agreements. Seller/Servicers have no obligation to Freddie Mac to monitor or audit a Document Custodian’s provision of services offshore. Such an arrangement by the Document Custodian, requiring Freddie Mac approval, should have no impact on a Seller/Servicer’s current operations or obligations.

### Receipt of Notes and/or other related documents from BNYM for Mortgages paid in full

#### Effective March 1, 2018

Seller/Servicers that utilize BNYM as a Document Custodian will no longer automatically receive loan documentation from BNYM based upon Freddie Mac’s “Paid in Full” file, which identifies Mortgages that have

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been paid off due to loan maturity or otherwise. To request the return of a Note and/or other documents from BNYM as Designated Custodian, Seller/Servicers must use the process described in Section 8107.1(b)(ii). Contact BNYM with questions about their change in process (see Directory 4 for BNYM's contact information).

### **Guide and Document Custody Procedures Handbook updates**

As a result of the changes related to Document Custody, we are:

- Creating new Form 1035WF
- For ease of reference and use, incorporating the Tri-Party Agreements (i.e., Forms 1035, 1035DC and 1035WF) into the Guide as fillable forms; and
- Updating Chapters 2202 and 8107, Sections 6101.7, 6301.8, 6304.1, 7101.9, 8601.12, 9203.6, 9301.11, Directory 4, Guide Exhibit 28A and Glossaries A-I and R-Z

Additionally, we are updating the Document Custody Procedures Handbook to reflect these changes.

### **FORMS 16SF, ANNUAL ELIGIBILITY CERTIFICATION REPORT, AND 1107SF, SELLER/SERVICER CHANGE NOTIFICATION**

**Effective November 10, 2017**

We periodically review and adapt Forms 16SF and 1107SF to meet changing needs. As a result of Seller/Service feedback and our internal review, we have updated Forms 16SF and 1107SF to provide more flexibility for Seller/Service. Changes include:

- Allowing Seller/Service to add or remove recipients and designate which reminders and notices they receive related to Forms 16SF and 1107SF
- Enabling Seller/Service to attach documents to Form 16SF (e.g., insurance declarations pages, documentation describing organizational changes, etc.). The ability to attach documents to Form 1107SF was added in a previous update.
- Enabling Seller/Service to identify themselves as a privately insured bank or credit union or an international bank
- Adding an e-mail confirmation that will be sent to the certifying officer, person submitting either Form 16SF or Form 1107SF (if different from the certifying officer), and the Primary Freddie Mac Business Contact to confirm receipt of the either Form 16SF or Form 1107SF

The electronic versions of these forms were updated on November 10, 2017. We will update the sample Form 16SF on [FreddieMac.com](http://FreddieMac.com) and the PDF version of Form 1107SF in the Guide in a future Bulletin. Although Seller/Service will not see the above edits in the PDF version of Form 1107SF until then, the version of the PDF Form 1107SF in the Guide may be used until the updated version is available.

### **ADDITIONAL GUIDE UPDATES AND REMINDERS**

#### **Guide Exhibit 98, Expense Reimbursement/Incentive Payment Authorization for ACH Credits**

We are updating the Guide to permit delivery of Exhibit 98 as an Electronic Record (as defined in Section 1401.2). Service may submit Exhibit 98 to Freddie Mac as: (i) a paper form or (ii) an Electronic Record copy attached to an e-mail to [counterparty\\_authorization@freddiemac.com](mailto:counterparty_authorization@freddiemac.com). We are also updating Exhibit 98 to simplify instructions for use and include a notary acknowledgment section.

In addition, we are reminding Service that:

- Each Service must have submitted the applicable certificate of incumbency form (i.e., Form 988SF-1, Form 988SF-2, or Form 989SF) and if necessary, any addendum to such form (i.e., Form 988ASF or Form 989ASF) (collectively, the "COI forms"), together with a resolution of the Service's board of directors or other governing body (the "Resolution") identifying the Service's employees authorized to provide Wire Transfer

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Instructions (as described in Section 2201.1) ("Authorized Employees") solely in connection with the Servicing of Mortgages for Freddie Mac in Part B

- All forms or exhibits providing Wire Transfer Instructions in connection with the Servicing of Mortgages for Freddie Mac, including Exhibit 98, must be executed by one of the Servicer's employees designated as an Authorized Employee on Part B of the Servicer's COI form
- Each Servicer must renew its COI forms every two years and its Resolution every four years, and determine if such renewal requires new or modified Wire Transfer Instructions. Freddie Mac will notify the Servicer of the renewal due date approximately 120 days in advance.

Guide impacts: Sections 2101.12, 2201.1, 2405.1 and 9102.1 and Exhibit 98

## **Modification of a Mortgage impacted by an Eligible Disaster**

### ***Capitalization and Extension Modification for Disaster Relief***

We are updating the Guide in response to Servicer inquiries regarding our requirements for determining the Trial Period Plan payment and terms of a Capitalization and Extension Modification for Disaster Relief ("Disaster Relief Modification"). The Disaster Relief Modification attempts to achieve a modified monthly principal and interest (P&I) payment amount that is equal to the pre-modified P&I payment amount by completing the following steps:

1. Capitalize arrearages
2. Determine the interest rate to be used, as follows:
  - a. If the Mortgage is a fixed-rate Mortgage, the Servicer must use the existing interest rate
  - b. If the Mortgage is an ARM or a Step-Rate Mortgage with no additional interest rate adjustments or steps scheduled, then the Servicer must use the existing interest rate; or
  - c. If the Mortgage is an ARM or a Step-Rate Mortgage with additional interest rate adjustments or steps scheduled, then the Servicer must use the lesser of the Freddie Mac modification interest rate (posted on <http://www.freddiemac.com/singlefamily/service/modrate.html>) or the maximum step-rate/lifetime cap note rate; and
3. Modify the maturity date by extending the term in monthly increments in accordance with Section 9206.5 until the modified P&I payment amount equals the existing contractual P&I payment amount

We are updating the Guide to specify that if, after the Servicer has completed step 1 and step 2, the resulting P&I payment amount is lower than the existing P&I payment amount without extending the term. The Servicer must not change the maturity date and must offer the modification terms to the Borrower.

The resulting P&I payment amount may be lower than the contractual P&I payment amount if the Borrower has made a principal curtailment prior to the Eligible Disaster or has an ARM or Step-Rate Mortgage that results in a modified interest rate that is lower than the existing interest rate.

Guide impact: Section 9206.4

### ***Extend Modification for Disaster Relief***

Regarding the Extend Modification for Disaster Relief ("Extend Modification") that was announced in Bulletin 2017-25, the scenario described above will not impact the monthly P&I payment amount for a fixed-rate Mortgage because the Servicer will not be capitalizing arrearages or re-amortizing the UPB to generate a new monthly P&I payment amount for an Extend Modification. However, we would like to acknowledge that the monthly P&I payment amount is subject to change when the Mortgage is an ARM or a Step-Rate Mortgage because the Mortgage is modified to a fixed-rate Mortgage, and the interest-bearing UPB subsequently is re-amortized. This also is an acceptable outcome, and may include more significant payment reductions if the Borrower has made one or more previous principal curtailments. We are not making any updates to the requirements for the Extend Modification. Servicers must continue to refer to Bulletin 2017-25 for complete requirements.

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## Liability insurance for condominiums

In response to Seller/Servicer feedback, we have reviewed our requirements and are removing the requirement that the condominium homeowners association maintain certain additional liability insurance coverage, including the following:

- Comprehensive automobile liability
- Bailee's liability
- Elevator collision liability
- Garage keeper's liability
- Host liquor liability
- Workers' compensation and employer's liability
- Contractual liability

Guide impact: Section 8202.5

## Transit insurance

We are updating the Guide to clarify that the transit insurance carried by Document Custodians and Seller/Servicers must identify Notes as Negotiable Instruments (as defined in Section 3-104 of the model Uniform Commercial Code) and must not exclude from coverage Notes with open endorsements.

Guide impact: Section 2202.5

## 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 2018-2 (Servicing) Guide Updates Spreadsheet available at [http://www.freddiemac.com/singlefamily/guide/docs/bl1802\\_spreadsheet.xls](http://www.freddiemac.com/singlefamily/guide/docs/bl1802_spreadsheet.xls).

## CONCLUSION

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

Sincerely,



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Vice President  
Servicer Performance Management