

**Announcement SVC-2010-08****June 25, 2010**

## **Updates to the Requirements for Evaluating Borrowers for Fannie Mae's Standard Mortgage Modification**

### **Introduction**

A general practice of servicers today is to consider borrowers for standard Fannie Mae mortgage loan modifications based on verbal financial information obtained from the borrower. Effective for all standard Fannie Mae mortgage loan modification solicitation offers on or after July 15, 2010, servicers must verify income, liabilities, and monthly expenses for all borrowers prior to granting a permanent standard Fannie Mae mortgage modification. Servicers may continue to process modifications that were previously evaluated based on stated income prior to July 15, 2010.

The policies contained in this Announcement update Part VII, Section 602.02: Modifying Conventional Mortgage Loans, of the Fannie Mae *Servicing Guide*. Except as indicated herein, all other requirements as outlined in Part VII, Section 602.02 pertaining to standard Fannie Mae mortgage loan modifications remain unchanged.

Except for servicers with a delegation of authority to approve modifications, Fannie Mae's prior approval—and that of the mortgage insurer, if applicable—is required for all proposals to change the terms of a conventional first or second lien mortgage loan.

This Announcement covers the following topics:

- Borrower's Financial Information
- Executing the Modification Agreement
- Reclassification or Removal of MBS Mortgage Loans Prior to Effective Date of Modification
- Redefault
- Escrow Accounts
- Reporting to Fannie Mae

### **Borrower's Financial Information**

The servicer must not agree to change the terms of a mortgage loan until the servicer receives and evaluates the financial information required to verify that the borrower has a hardship, determines that a permanent standard Fannie Mae mortgage modification is the appropriate foreclosure prevention alternative, and obtains Fannie Mae's prior written approval.

The servicer has the option of collecting the financial information through the *Borrower's Financial Statement* (Fannie Mae Form 1020 or 1020(S)), a customized financial form on the servicer's letterhead or Web site, or other equivalent financial form that includes all information

required on Form 1020/1020(S) (for example, Schedule I or J from an active Chapter 13 bankruptcy filing).

The servicer must use the information from Form 1020/1020(S) or its equivalent to determine the borrower's total assets. Servicers are reminded that Fannie Mae requires the borrower to make a cash contribution if financially feasible toward reducing the delinquency. The liabilities listed on Form 1020/1020(s) or its equivalent must be compared to a recent credit report. Monthly gross income included on Form 1020/1020(S) must be verified as outlined in the section below. The servicer may rely on verbal information obtained from the borrower to document the borrower's monthly living expenses in its servicing system.

In some cases, it may be necessary to gather additional documentation to support financial information on Form 1020/1020(S) or its equivalent or there may be instances in which the income documentation Fannie Mae generally requires will not apply. The servicer must contact its Servicing Consultant, Portfolio Manager, or Fannie Mae's National Servicing Organization's Servicing Solutions Center at (888) 326-6435 to discuss any special documentation that may be needed to adequately support Form 1020/1020(S) or its equivalent provided by the borrower(s). After the servicer has completely evaluated the borrower's financial condition as well as the condition of and circumstances affecting the mortgaged property, the servicer should be able to reach a preliminary conclusion about which foreclosure prevention alternative(s) will be effective before requesting Fannie Mae's prior approval.

### **Documenting and Verifying Gross Monthly Income**

Income documentation must not be more than 90 days old from the date of evaluation of the standard Fannie Mae modification. Income documentation previously obtained during the HAMP evaluation, if applicable, may be relied upon for the purposes of verifying income for a standard Fannie Mae modification provided that the documentation is not more than 90 days old from the date of evaluation for the standard Fannie Mae modification.

The borrower must provide financial information to the servicer as outlined below.

If the borrower is employed:

- copies of the two most recent paystubs, or if not available, a copy of the most recent paystub indicating year-to-date earnings.

If the borrower has other earned income such as bonus, commission, fee, housing allowance, tips, overtime:

- reliable third-party documentation describing the nature of the income (for example, an employment contract or printouts documenting tip income).

If the borrower is self-employed:

- a signed copy of the most recent federal income tax return, including all schedules and forms, if available, or a Transcript of Tax Return resulting from an executed Internal Revenue Service *Request for Transcript of Tax Return* (Form 4506-T); and
- copies of bank statements for the business account for the last two months to document continuation of business activity.

If the borrower elects to use alimony or child support income to qualify:

- photocopies of the divorce decree, separation agreement, or other type of legal written agreement or court decree that provides for the payment of alimony or child support and states the amount of the award and the period of time over which it will be received;
- documents supplying reasonably reliable evidence of full, regular, and timely payments, such as bank deposit slips or bank statements for the last two months; and
- the servicer must have determined that the income will continue for three years in order for the income to be considered in calculating the terms of the modification.

If the borrower has other income such as Social Security, disability or death benefits, a pension, public assistance, or adoption assistance:

- letters, exhibits, a disability policy or benefits statement from the provider that states the amount, frequency, and duration of the benefit; and
- copies of the most recent bank statement showing these deposits.

If the borrower receives unemployment income:

- letters, exhibits, or a benefits statement from the provider that states the amount, frequency, and duration of the benefit. The servicer must have determined that the income will continue for at least nine months from the date of the eligibility determination.

If the borrower has rental income:

- copies of all pages from the borrower's signed federal income tax return and Schedule E – *Supplemental Income and Loss*, for the most recent tax year.
  - When Schedule E is not available because the property was not previously rented, servicers may accept a current lease agreement and bank statements or cancelled rent checks.
  - If the borrower has rental income from a one- to four-unit property that is also the borrower's principal residence, the monthly net rental income to be calculated must equal 75 percent of the gross rent, with the remaining 25 percent being considered vacancy loss and maintenance expense.
  - If the borrower has rental income from a property that is other than the borrower's principal residence, the income should be 75 percent of the monthly gross rental income, reduced by the monthly debt service on the property (i.e., principal, interest, taxes, insurance, including mortgage insurance and association fees, if applicable).

Mortgage loans that are eligible for the Alternative Modification program as announced in Lender Letter LL-2010-04, *Fannie Mae's Alternative Modification to the Home Affordable Modification Program* and Lender Letter LL-2010-07, *Extension to Fannie Mae's Alternative Modification™ to the Home Affordable Modification Program* may be underwritten according to the Alternative Modification requirements and are not subject to the documentation requirements contained in this Announcement.

## **Documenting and Verifying Liabilities**

The servicer must obtain a credit report for each borrower or a joint report for a married couple who are co-borrowers to validate installment debt and other liens. In addition, the servicer must consider information concerning monthly obligations obtained from the borrower either verbally or in writing. The “total liabilities” equals the sum of the following monthly charges:

- The monthly mortgage payment, including any mortgage insurance premiums, taxes, property insurance, homeowners' or condominium association fee payments, and

assessments related to the property whether or not they are included in the mortgage payment.

- Monthly payments on all closed-end subordinate mortgage loans.
- Payments on all installment debts with more than 10 months of payments remaining, including debts that are in a period of either deferment or forbearance. When payments on an installment debt are not on the credit report or are listed as deferred, the servicer must obtain documentation to support the payment amount included in the monthly debt payment. If no monthly payment is reported on a student loan that is deferred or is in forbearance, the servicer must obtain documentation verifying the proposed monthly payment amount, or use a minimum of 1.5 percent of the balance.
- Monthly payment on revolving or open-end accounts, regardless of the balance. In the absence of a stated payment, the payment will be calculated by multiplying the outstanding balance by 3 percent.
- Monthly payment on a Home Equity Line of Credit (HELOC) must be included in the payment ratio using the minimum monthly payment reported on the credit report. If the HELOC has a balance but no monthly payment is reported, the servicer must obtain documentation verifying the payment amount, or use a minimum of 1 percent of the balance.
- Alimony, child support, and separate maintenance payments with more than 10 months of payments remaining, if supplied by the borrower.
- Car lease payments, regardless of the number of payments remaining.
- Aggregate negative net rental income from all investment properties owned, if supplied by the borrower.
- Monthly mortgage payment or rent for a second home (PITI and, when applicable, mortgage insurance, leasehold payments, homeowners' association dues, condominium unit or cooperative unit maintenance fees (excluding unit utility charges)).

## **Executing the Modification Agreement**

Upon the servicer's receipt of all required documentation, a determination that the borrower is eligible for a standard Fannie Mae mortgage modification, and Fannie Mae's prior written approval to proceed with a modification, the servicer may prepare and send to the borrower a firm offer solicitation indicating the borrower is eligible for the modification.

The servicer must ensure that its communications with the borrower clearly convey that the loan modification will not be binding, enforceable, or effective unless and until the borrower delivers the executed loan modification agreement and any required payments to the servicer and the servicer signs the loan modification agreement. Servicers are reminded that mortgage loan modifications must be signed by an authorized representative of the servicer and must reflect the actual date of signature by the servicer's representative.

Signature by the servicer's authorized representative must not occur until after the mortgage loan has been removed from the MBS pool and either reclassified as a Fannie Mae portfolio

mortgage or repurchased by the servicer (refer to section below). This requirement applies to mortgage loans in MBS pools, including all Pooled from Portfolio mortgage loans purchased as whole loans for Fannie Mae's portfolio that it subsequently securitizes.

## **Reclassification or Removal of MBS Mortgage Loans Prior to Effective Date of Modification**

The effective date of the modification for any mortgage loan in an MBS pool can only occur after it has been removed from the MBS pool. Servicers are reminded that for an MBS loan to be eligible for reclassification from an MBS pool for the purpose of modification, the mortgage loan must have been in a continuous state of delinquency for at least four consecutive monthly payments (or at least eight consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency.

A delinquent MBS mortgage loan that is serviced under the special servicing option or a shared-risk MBS pool for which Fannie Mae markets the acquired property generally will be removed from its MBS pool in accordance with Fannie Mae's procedures for automatic reclassification of delinquent MBS mortgage loans as portfolio mortgage loans.

For MBS mortgage loans that are not subject to Fannie Mae's automatic reclassification process, servicers must request reclassification through the HomeSaver Solutions<sup>®</sup> Network (HSSN).

## **Removal of Regular Servicing Option MBS Mortgage Loans**

Servicers of regular servicing option MBS mortgage loans are encouraged to offer standard Fannie Mae modifications for these mortgage loans. If the servicer decides to use standard Fannie Mae modifications for such mortgage loans, the servicer will be expected to obtain any third-party approvals, and comply with the requirements of the *Servicing Guide* governing reporting and removal of these mortgage loans from MBS pools, if applicable. Fannie Mae is not responsible for any losses or expenses the servicer incurs and will not pay borrower or servicer incentive fees for these mortgage loans which are serviced under the regular servicing option.

The servicer of a mortgage loan that is part of a regular servicing option MBS pool or part of a shared-risk special servicing option MBS pool for which the servicer's shared risk liability has not expired must not modify the mortgage loan as long as it remains in the MBS pool. The servicer must purchase the mortgage loan from the MBS pool provided the mortgage loan has been in a continuous state of delinquency for at least four consecutive monthly payments (or at least eight consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency. Regular servicing option MBS mortgage loans and such shared-risk special servicing option MBS mortgage loans that have been purchased from an MBS pool for purposes of modification are not eligible for redelivery to Fannie Mae. Performing MBS mortgage loans and those that do not meet the delinquency criteria described above are ineligible for repurchase for the purpose of modifying the mortgage loan.

## **Redefault**

If a borrower becomes 60 or more days delinquent within the first 12 months after the effective date of the standard Fannie Mae modification, then the servicer must immediately work with the

borrower to pursue either a preforeclosure sale or deed-in-lieu of foreclosure, or commence foreclosure proceedings, in accordance with applicable state law. If the servicer determines that another modification is appropriate for the borrower, the servicer must first obtain Fannie Mae's prior written approval.

## **Escrow Accounts**

All of the borrower's monthly payments under Fannie Mae's standard modification must include a monthly escrow amount unless prohibited by applicable law. For a non-escrowed mortgage loan, the servicer must assume full responsibility for administering the borrower's escrow deposit account in accordance with the mortgage documents and all applicable laws and regulations. (For more information on Fannie Mae's escrow account requirements, see the *Servicing Guide*, Part III, Section 103: Escrow Deposit Accounts.)

For a mortgage loan with an existing escrow account, the servicer is required to analyze the account prior to the modification effective date to estimate the periodic escrow deposit required to ensure that adequate funds are available to pay future charges. The new escrow payment effective date and the modification effective date must be the same date.

If applicable law prohibits the establishment of the escrow account, the servicer must ensure that the taxes and insurance premiums are paid to date.

## **Reporting to Fannie Mae**

### **Investor Reporting and Remitting**

Existing monthly Loan Activity Record (LAR) reporting requirements for Fannie Mae servicers will not change. The servicer must continue to report the standard LAR format for loan payments by the third business day and for payoff activity by the second business day of each month for the prior month's activity. (For example, payoff reporting to be received by April 2<sup>nd</sup> will contain March activity.)

The servicer should report the post modification unpaid principal balance (UPB) once the modification is closed in HSSN. (For example, for a modification closed on March 25, the post modification UPB should be reported on the April 3<sup>rd</sup> LAR.) If the servicer submits a LAR to report the post modification UPB before the case is closed in HSSN, an exception will occur.

If the pre-modification UPB or the pre-modification last paid installment (LPI) reported in HSSN for the closed modification does not agree with the pre-modification UPB or LPI in Fannie Mae's investor reporting system, the loan modification will not be processed in Fannie Mae's investor reporting system until the discrepancy is resolved.

### **Reporting through HSSN**

For all Fannie Mae portfolio mortgage loans and MBS pool mortgage loans guaranteed by Fannie Mae (including lender recourse loans), the servicer must enter loan level data by submitting a case into HSSN. The servicer must use HSSN to request reclassification for MBS mortgage loans when appropriate. After Fannie Mae prior written approval is obtained and the mortgage loan is reclassified, the servicer will follow the existing procedure and update the Officer Signature Date in HSSN to close the modification.

\*\*\*\*\*

Servicers should contact their Servicing Consultant, Portfolio Manager, or the National Servicing Organization's Servicer Support Center at 1-888-FANNIE5 (888-326-6435) with any questions regarding this Announcement.

Gwen Muse-Evans  
Vice President  
Chief Risk Officer for Credit Portfolio Management