

**Announcement SVC-2011-15****September 1, 2011**

## Miscellaneous Servicing Policy Changes

### Introduction

This Announcement describes policy changes to the following:

- Update to attorney (trustee) foreclosure process and fees
- Increase in HAMP incentive fees
- Availability of forbearance option at balloon maturity
- Termination of the option to submit manually prepared IRS Form 1099-C

### Update to Attorney (Trustee) Foreclosure Process and Fees

#### ***Servicing Guide, Part VIII, Section 104.04: Attorney (or Trustee) Fees, and Allowable Attorney and Trustee Foreclosure Fees Exhibit***

Fannie Mae is amending the foreclosure process and fees in the State of Hawaii and is announcing updated allowable attorney fees for mortgage loans, participation pool mortgage loans, and MBS mortgage loans serviced under the special servicing option secured by properties located in the States of Delaware and New York.

#### **Hawaii**

As stated in the Notice, *Hawaii Legislative Changes Affecting Non-Judicial Foreclosures*, dated June 10, 2011, and until further notice, all foreclosures of secured properties located in the State of Hawaii referred to an attorney on or after May 5, 2011, must be commenced as judicial foreclosures.

Additionally, all pending Fannie Mae non-judicial foreclosures in Hawaii that have not proceeded to sale must be dismissed and converted to judicial foreclosures.

Fannie Mae is establishing a maximum allowable foreclosure fee for Hawaii judicial foreclosures of \$2,200. This fee applies to all new Hawaii foreclosures as well as any pending Hawaii foreclosures that must be restarted judicially, and has been updated in the [Allowable Attorney and Trustee Foreclosure Fees](#) Exhibit on eFannieMae.com.

Due to potential title insurance issues, Fannie Mae may be required to eliminate certain recent acquisitions that resulted from non-judicial foreclosures. Upon being notified of any eliminations, servicers must immediately restart the matters as judicial foreclosures.

Fannie Mae has notified its two Retained Attorney Network law firms of its intentions with respect to pending and future Hawaii foreclosures. Those firms are RCO Hawaii, LLLC and

Clay, Chapman, Iwamura, Pulice & Nervell, AP/ALC. Servicers are reminded that Fannie Mae foreclosure referrals in Hawaii must go to one of these two law firms in the network.

Servicers are responsible, however, for managing the foreclosure process, including any foreclosures that have previously been referred to law firms that are not members of the Fannie Mae Retained Attorney Network.

## **Delaware**

Effective for mortgage loans referred to an attorney on or after August 1, 2011, and secured by properties located in the State of Delaware, Fannie Mae will increase the maximum allowable attorney fee for legal work related to judicial foreclosures from \$950 to \$1,150. This fee includes all steps required to complete a judicial foreclosure in the State of Delaware.

## **New York**

Effective for mortgage loans referred to an attorney on or after August 1, 2011, and secured by properties located in the State of New York, Fannie Mae will increase the maximum allowable attorney fee for legal work related to judicial foreclosures from \$1,400 to \$1,800, except in the City of New York and on Long Island (Nassau and Suffolk Counties) where the judicial foreclosure fee will be increased from \$2,000 to \$2,200. These fees include all steps required to complete a judicial foreclosure in the State of New York.

In addition, Fannie Mae will reimburse servicers \$50 for preparation of each Affirmation required to be prepared under New York foreclosure practice, on all cases referred to counsel between September 1, 2009 and July 31, 2011. For cases referred to an attorney prior to September 1, 2009, the servicer must pay fees for preparation of Affirmations directly to counsel, and Fannie Mae will not reimburse the servicer as part of the claims process.

## **Increase in HAMP Incentive Fees**

### ***Servicing Guide, Part VII, Section 609.09.04: Incentive Compensation***

Fannie Mae is updating the incentive fee structure for all HAMP modifications with a Trial Period Plan Effective Date on or after October 1, 2011. Fannie Mae will pay the servicer based on a tiered incentive structure, which encourages the servicer to identify and provide an appropriate solution to a borrower who is experiencing a financial hardship at the very early stages of the delinquency.

The new incentive fee structure is based on the number of days the mortgage loan is delinquent as of the Trial Period Plan Effective Date. Servicer incentive fees will be paid upon successful completion of the modification, as follows:

<b>Number of Days Delinquent at Trial Period Plan Effective Date</b>	<b>Incentive Amount</b>
Less than or equal to 120 days delinquent (150 days from Last Paid Installment (LPI))	\$1,600
121 days or more delinquent to and including 210 days delinquent (151 to 240 days from LPI)	\$1,200
Greater than 210 days delinquent (greater than 240 days from LPI)	\$ 400

Fannie Mae will no longer pay the additional \$500 incentive fee on mortgage loans that are either current or less than 60 days delinquent (facing imminent default). The servicer's "pay for success" fee as referenced in the *Servicing Guide*, Part VII, Section 609.09.04: Incentive Compensation, remains unchanged.

## **Forbearance Option at Balloon Maturity**

### ***Servicing Guide*, Part III, Section 804.03: Forbearance**

Forbearance may be offered to a borrower who is not exercising the conditional refinance option but is unable to make the balloon payment by the balloon maturity date. The most common situations are those in which the borrower:

- is refinancing and the proceeds are not available until after the balloon maturity date;
- is using the proceeds from the sale of the property which will not close until after the balloon maturity date; or
- has informed the servicer that he or she will be able to make the "past-due" balloon payment after the end of the balloon maturity month.

Fannie Mae permits the servicer to grant forbearance to allow the borrower to make the balloon payment after the balloon maturity date where the borrower provides proof (such as an unconditional loan commitment or an executed sales contract) that other financing has been secured or the property has been sold and is scheduled for settlement, or if the servicer's follow up efforts have otherwise confirmed the need for forbearance. With this Announcement, Fannie Mae will allow a forbearance period, not to exceed 90 days, after the original balloon maturity date. Servicers are reminded that they must execute a written forbearance agreement with the borrower as outlined in Part III, Section 804.03.

Servicers are further reminded that the granting of forbearance does not relieve the servicer of its responsibility for advancing on the original balloon maturity date the balloon payment (including scheduled interest) for an MBS mortgage loan or for advancing scheduled interest for a scheduled/actual portfolio mortgage loan until the balloon mortgage loan is paid off or refinanced.

## **Termination of the Option to Submit Manually Prepared IRS Form 1099-C**

### ***Servicing Guide*, Part VIII, Chapter 1: Foreclosures, Section 116.05: Reporting via Magnetic Media**

With Announcement SVC-2010-17, *Miscellaneous Servicing Policy Changes*, Fannie Mae announced the termination of the option to submit manually prepared IRS Forms 1099-A (Acquisition or Abandonment of Secured Property) on behalf of servicers, thereby eliminating the process described in the *Servicing Guide*, Part VIII, Section 115.03: Reporting via Manually Prepared Reports (which included filing IRS Form 1099-C).

Effective with this Announcement, servicers must electronically file all required IRS Forms 1099-C (Cancellation of Debt) with the IRS on behalf of Fannie Mae and no longer submit manually prepared IRS Forms 1099-C to Fannie Mae.

Servicers are reminded of their responsibility to ensure that all information reported is correct and submitted on a timely basis to the IRS. Servicers are also reminded to submit a [Summary of IRS Form 1099-A and 1099-C Filing](#) (Form 1100) to Fannie Mae as notification that the data was reported to the IRS.

\*\*\*\*\*

Servicers should contact their Servicing Consultant, Portfolio Manager, Investor Reporting Business Analyst, or Fannie Mae's National Servicing Organization's Servicing Solutions 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