FannieMae

Servicing Guide Announcement SVC-2013-16

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Updates to Assistance in Disasters

This Announcement updates policies on assistance for borrowers impacted by disasters (defined in the *Servicing Guide* as earthquakes, floods, hurricanes, or other catastrophes caused by a person or event beyond the borrower's control). These policies relate to the following:

- Forbearance for Assistance in Disasters
- Insurance Claim Settlements
- Borrower Income Documentation, and
- Credit Bureau Reporting

In addition, Fannie Mae is updating and introducing additional guidance relating to modification options for borrowers whose properties are located in Federal Emergency Management Agency (FEMA) Declared Disaster Areas eligible for Individual Assistance:

- Applying Streamlined Modifications Post Disaster Forbearance
- Cap and Extend Modification for Disaster Relief, and
- Escrow Accounts.

Effective Date

Servicers are required to implement the updated policies in this Announcement immediately, unless otherwise indicated.

Forbearance for Assistance in Disasters

Servicing Guide, Part III, Section 1102: Special Relief Measures; Section 1102.01: Special Relief Requirements; and Section 1102.02: Status of Mortgage Loan; and Part VII, Section 403: Forbearance and Section 406: Disaster Relief

Fannie Mae is updating its forbearance requirements for mortgage loans secured by properties affected by a disaster where:

- the servicer achieves Quality Right Party Contact (QRPC) during the initial 90-day post-disaster relief period; and
- the borrower is
  - current,
  - 90 days or less delinquent at the time of the disaster, or
  - successfully performing under an active Trial Period Plan.

The table below illustrates the new forbearance terms for borrowers with mortgage loans secured by properties affected by a disaster. The forbearance terms vary based on whether and when QRPC has been achieved and the delinquency status of the mortgage loan. Fannie Mae approval is not required if the forbearance terms meet the requirements indicated in the table below, however, any forbearance that exceeds these terms will require written approval from Fannie Mae.

Maximum Number of Months of Forbearance for Assistance in Disasters		
Post Disaster QRPC	Delinquency at time of Disaster	
	Current or Less than or Equal to 3 Months Delinquent	Greater than 3 Months Delinquent
No QRPC	Up to 3 Months	Up to 3 Months
QRPC	Up to 12 Months	Up to 6 Months

The servicer must use its discretion to determine the appropriate duration of the forbearance period based on the extent of damage to the property and/or financial impact to the borrower. In no event shall the servicer approve a forbearance period that exceeds the maximum terms shown in the table above. After forbearance is granted, the servicer must continue to work with the borrower to determine what additional steps can be taken (for example, application of insurance claim settlements to repair the property).

If the borrower converts from an active Trial Period Plan to forbearance, the borrower may subsequently be eligible for a Fannie Mae retention option, such as a modification, upon completion of the forbearance. If the borrower is eligible for a modification, the borrower must commence a new Trial Period Plan. Upon completion of the forbearance, if the borrower is unable to qualify for a Trial Period Plan, the servicer must consider other foreclosure prevention alternatives for the borrower.

Servicers are reminded that any forbearance arrangement that extends for a period longer than six months must be in writing as outlined in the *Servicing Guide*, Part VII, Section 403: Forbearance.

The servicer must make sure that any action it takes to enter into relief provisions will not affect Fannie Mae's right to file a mortgage insurance or guaranty claim in the future. The servicer must check with the local FHA, VA, or RD office to determine appropriate procedures for extending relief to a borrower who has a government-insured or government-guaranteed mortgage loan. The servicer must document its individual mortgage loan file regarding all servicing actions taken during this period to ensure that any future insurance or guaranty claims will not be adversely affected.

Insurance Claim Settlements

***Servicing Guide*, Part III, Section 1103: Insurance Claim Settlements; Section 1103.01: Current Mortgage Loans; and Section 1103.02: Mortgage Loans 30 Days to Less Than 90 Days Delinquent or That Are Current Under the Terms of a Bankruptcy Plan**

Fannie Mae is updating its requirements for insurance claim settlements for mortgage loans secured by properties affected by a disaster.

Servicers must take the action described in the following table for properties secured by mortgage loans that are either current or less than 31 days delinquent at the time of the disaster:

Mortgage Loan Current Or Less Than 31 Days Delinquent	
If	**Then the servicer**
the property is a principal residence and suffered a total or near-total loss,	may release insurance proceeds up to the greater of $40,000 or 10% of the unpaid principal balance. Servicers may release proceeds received less than or equal to $20,000 directly to the borrower, while proceeds greater than $20,000 must be released payable to the borrower and the licensed contractor.
the property is a principal residence and did not suffer a total or near-total loss,	must implement insurance claim settlement policies on Fannie Mae mortgage loans that are consistent with policies used in servicing mortgage loans for their own wholly owned portfolio.
the property is a second home or an investment property, and suffered any level of loss,	

Servicers are reminded to follow Fannie Mae's existing policies for distribution of insurance proceeds (in the *Servicing Guide,* Part III, Section 1103.02 and Section 1103.03) for any mortgage loan that is 31 days or more delinquent and secured by a property affected by a disaster.

> NOTE: *In addition, Fannie Mae is clarifying that the requirements in Part III, Section 1103.02 apply to mortgage loans that are at least 31 days (not 30 days) to less than 90 days delinquent or that are current under the terms of a bankruptcy plan.*

Borrower Income Documentation

Servicing Guide, Part VII, Section 205.04: Borrower Response Package

Fannie Mae is updating the policy for the age of income documentation required as part of the Borrower Response Package for borrowers affected by a disaster. Income documentation must be equal to or less than 180 days old at the time of the post-disaster evaluation for a Fannie Mae foreclosure prevention alternative. The post-disaster evaluation for a foreclosure prevention alternative must occur prior to the expiration of the forbearance period granted to borrowers affected by a disaster.

Credit Bureau Reporting

Servicing Guide, Part VII, Section 602.04.03: Credit Bureau Reporting

Servicers are reminded to suspend credit reporting for borrowers granted forbearance related to disaster relief as provided in Part VII, Section 403: Forbearance. With this Announcement, servicers must also suspend credit reporting for a borrower affected by a disaster during a repayment plan or a Trial Period Plan where the borrower is making the required payments as agreed. Servicers are responsible for making any appropriate changes to the *Evaluation Notice (Trial Period Plan)* to reflect this change in policy.

Applying Streamlined Modifications Post Disaster Forbearance

Fannie Mae is modifying certain requirements for Streamlined Modifications for borrowers completing a disaster-related forbearance where the subject properties are located in a FEMA Declared Disaster Area eligible for Individual Assistance. Except as stated in this Announcement, servicers must process the Streamlined Modification consistent with the requirements described in the *Servicing Guide* Announcement

SVC-2013-05*: Streamlined Modifications, Conventional Mortgage Loan Modifications, and Outbound Communications.*

Servicers are encouraged to implement these policies immediately; however, servicers are required to implement these policies for impacted borrowers who are eligible for a Streamlined Modification on or after November 1, 2013.

Streamlined Modification Eligibility Requirements

Servicing Guide,* Part VII, Section 205: Letters; Section 602: Mortgage Loan Modifications; and Announcement SVC-2013-05: *Streamlined Modifications, Conventional Mortgage Loan Modifications, and Outbound Communications

A mortgage loan secured by a property located in a FEMA Declared Disaster Area eligible for Individual Assistance Area must meet the following reduced eligibility requirements for Streamlined Modification consideration:

- The borrower must have been current or less than 31 days delinquent at the time of the disaster and must now be at least 90 days delinquent after completing a disaster-related forbearance, and
- The mortgage loan must be secured by a first-lien on the property.

> NOTE: *There are no pre-modified mark-to-market loan-to-value (MTM LTV) ratio (the gross unpaid principal balance of the mortgage loan divided by the current value of the property) restrictions for applying Streamlined Modification post disaster forbearance.*

For borrowers whose properties are located in a FEMA Declared Disaster Area eligible for Individual Assistance Area and who are granted disaster-related forbearance relief, servicers are not required to have previously solicited the borrower for a foreclosure prevention alternative prior to offering a Streamlined Modification after the forbearance. However, prior to offering a Streamlined Modification, the servicer must attempt to establish QRPC with the borrower during the forbearance period to determine the borrower's financial circumstances and the appropriate foreclosure prevention alterative in accordance with *Servicing Guide* Announcement SVC-2013-05*.*

Streamlined Modification Eligibility Exclusions

A mortgage loan is considered ineligible for Streamlined Modification after a disaster-related forbearance if any of the following apply:

- The mortgage loan is:
  - insured or guaranteed by a federal government agency (e.g., FHA, VA, or RD);
  - currently performing under a repayment plan or other non-disaster related forbearance;
  - subject to:
    - a recourse or indemnification arrangement under which Fannie Mae purchased or securitized the mortgage loan or that was imposed by Fannie Mae after the loan had been purchased or securitized;
    - active nonroutine litigation described in the *Servicing Guide*, Part VIII, Section 101: Routine vs. Nonroutine Litigation;
    - an approved liquidation workout; or
    - a current offer for another loan modification or other foreclosure prevention alternative.

Streamlined Modification Solicitation Letter and Trial Period Plan Offer

Servicing Guide, Part VII, Section 205: Letters and Section 205.01: Borrower Solicitation Letters

If the mortgage loan satisfies the Streamlined Modification eligibility requirements in this Announcement, the servicer must send the borrower a customized *Streamlined Modification Post Disaster Forbearance Solicitation Letter* and related *Evaluation Notice (Trial Period Plan),* available on Fannie Mae's website. Use of the customized documents is optional; however, the documents reflect a minimum level of information that the servicer must communicate and illustrates a level of specificity that complies with the requirements of the *Servicing Guide* and this Announcement. The servicer that elects to use the customized documents must revise them as necessary to comply with applicable law.

The servicer must complete the mailing of the *Streamlined Modification Post Disaster Forbearance Solicitation Letter* and related *Evaluation Notice (Trial Period Plan)* prior to the completion of the disaster-related forbearance period.

Borrowers who meet the eligibility requirements in this Announcement and inquire about a modification or submit a Borrower Response Package must be sent the *Streamlined Modification Post Disaster Forbearance Solicitation Letter* and related *Evaluation Notice (Trial Period Plan)* and be evaluated pursuant to the requirements of this Announcement. However, borrowers are not required to submit a Borrower Response Package prior to the *Streamlined Modification Post Disaster Forbearance Solicitation Letter* and related *Evaluation Notice (Trial Period Plan)* being mailed. As a reminder, except as provided in this Announcement, the servicer is responsible for ensuring that the Trial Period Plan complies with the applicable requirements provided in the *Servicing Guide*, Part VII, Section 205.08: Evaluation Notices and Section 602.02.06: Trial Period Plan.

The *Streamlined Modification Post Disaster Forbearance Solicitation Letter* and related *Evaluation Notice (Trial Period Plan)* have been customized for purposes of this Announcement to reflect that the borrower has the option of accepting an offer for a Cap and Extend Modification for Disaster Relief (described below) in lieu of the Streamlined Modification. This offer must be made when the borrower has indicated to the servicer:

- the ability to continue to make the current contractual principal, interest, taxes, and insurance (PITI) payment on the loan, and
- that he or she does not want to modify the current loan in accordance with the terms of the Streamlined Modification.

Servicers must be prepared to discuss with the borrower all available modifications and must help the borrower assess the best modification based on the borrower's financial circumstances, and ability to pay over the course of the loan. If the borrower elects a Cap and Extend Modification for Disaster Relief in lieu of the Streamlined Modification, the servicer must send a new *Evaluation Notice (Trial Period Plan)* to the borrower within five days of such communication by the borrower to the servicer. The *Evaluation Notice (Trial Period Plan)* must reflect the terms provided below for a Cap and Extend Modification for Disaster Relief.

Streamlined Modification Terms

Servicing Guide, Part VII, Section 602.02.05: Conventional Mortgage Loan Modification Terms and Announcement SVC-2013-05: *Streamlined Modifications, Conventional Mortgage Loan Modifications, and Outbound Communications*

For loans secured by properties located in a FEMA Declared Disaster Area eligible for Individual Assistance that have a pre-modification MTM LTV ratio that is:

- greater than or equal to 80%, the terms of the modification must comply with the requirements provided in the *Servicing Guide* for Streamlined Modifications; or

- less than 80%, the servicer must follow all of the following steps in the order provided below to determine the borrower's new modified payment terms:

1. capitalize arrearages, as described in the *Servicing Guide*, Part VII, Section 602.02.05: Conventional Mortgage Loan Modification Terms;
2. set the modification interest rate based on the requirements in the table below; and

If mortgage loan is	Then…
a fixed-rate mortgage loan,	the modified mortgage loan interest rate remains unchanged.
an ARM, interest-only, or a step-rate mortgage loan,	set the rate as follows: ▪ If the current interest rate is less than the current Fannie Mae Standard Modification Interest Rate, set the interest rate to the current Fannie Mae Standard Modification Interest Rate. ▪ If the current interest rate is greater than or equal to the current Fannie Mae Standard Modification Interest Rate, the current interest rate will apply to modified mortgage loan as the permanent fixed rate of interest.

3. extend the term to 480 months from the mortgage Loan Modification Effective Date.

Servicers are reminded that if any step conflicts with applicable law, the servicer must comply with all applicable law, and notify Fannie Mae if the terms as proposed conflict with applicable law.

Cap and Extend Modification for Disaster Relief

Servicing Guide, Part VII, Section 602: Mortgage Loan Modification

Fannie Mae is introducing a new mortgage loan modification, Cap and Extend Modification for Disaster Relief, for eligible borrowers completing a disaster-related forbearance if the subject property is located in a FEMA Declared Disaster Area eligible for Individual Assistance. Except as stated in this Announcement, servicers must process Cap and Extend Modification for Disaster Relief consistent with the requirements for a standard modification as described in the *Servicing Guide.*

Servicers are encouraged to implement the new requirements for Cap and Extend Modification for Disaster Relief immediately; however, servicers are required to implement these policies for borrowers who are eligible for a Cap and Extend Modification for Disaster Relief as described below on or after November 1, 2013.

Cap and Extend Modification for Disaster Relief Eligibility Requirements

Mortgage loans must satisfy all of the eligibility requirements shown below to be eligible for a Cap and Extend Modification for Disaster Relief:

- The mortgage loan must be secured by a property located in a FEMA Declared Disaster Area eligible for Individual Assistance.
- The mortgage loan must have been current or less than 31 days delinquent at the time of the disaster event and must be at least 60 but less than 360 days delinquent, after completing a disaster-related forbearance.
- The servicer must have achieved QRPC with the borrower prior to completion of the forbearance and prior to the evaluation for the Cap and Extend Modification for Disaster Relief.
- The mortgage loan must be a first-lien mortgage loan.

- A complete Borrower Response Package is not required.

Cap and Extend Modification for Disaster Relief Eligibility Exclusions

A mortgage loan is considered ineligible for a Cap and Extend Modification for Disaster Relief if any of the following apply:

- The mortgage loan is insured or guaranteed by a federal government agency (e.g., FHA, VA, or RD).
- The mortgage loan is subject to:
  - a recourse or indemnification arrangement under which Fannie Mae purchased or securitized the mortgage loan or that was imposed by Fannie Mae after the loan had been purchased or securitized;
  - active nonroutine litigation described in the *Servicing Guide*, Part VIII, Section 101: Routine vs. Nonroutine Litigation;
  - an approved liquidation workout;
  - is currently performing under a repayment plan or other non-disaster related forbearance; or
  - a current offer for another loan modification (excluding a Streamlined Modification granted for disaster relief), or other foreclosure prevention alternative.

Cap and Extend Modification for Disaster Relief Evaluation Notice

Servicing Guide, Part VII, Section 205: Letters; Section 205.01: Borrower Solicitation Letter; Section 205.08: Evaluation Notices; and, Section 602.02.06: Trial Period Plan

Prior to evaluating a borrower for a Disaster Cap and Extend Modification for Disaster Relief, a servicer is not required to have previously solicited the borrower for a foreclosure prevention alternative in accordance with the *Servicing Guide*. However, the servicer must establish QRPC with the borrower during the forbearance period and must determine whether the borrower is capable of maintaining their current contractual monthly PITI payment, including escrows, and desires a Cap and Extend Modification for Disaster Relief in lieu of a Streamlined Modification.

If the mortgage loan satisfies the eligibility requirements for the Cap and Extend Modification for Disaster Relief, the servicer must send to the borrower an *Evaluation Notice (Non-HAMP Trial Period Plan)* that complies with the applicable requirements provided in the *Servicing Guide.* The *Evaluation Notice (Non-HAMP Trial Period Plan)* must be provided to the borrower within five days of the servicer's decision to offer the Cap and Extend Modification for Disaster Relief. A model Non-HAMP Trial Period Plan Notice is available on Fannie Mae's website. The servicer is responsible for making appropriate changes to the Trial Period Plan, including Frequently Asked Questions (FAQs), to reflect a Cap and Extend Modification for Disaster Relief, as well as any changes relating to the retention of an ARM, step-rate, or interest-only mortgage loan feature.

If the borrower accepts a disaster-related Streamlined Modification Trial Period Plan by submitting the first Trial Period Plan payment, and during the trial period contacts the servicer to obtain a Cap and Extend Modification for Disaster Relief in lieu of the Streamlined Modification, the servicer must restart the Trial Period Plan based on the borrower's monthly principal and interest payment obligation described under the terms of the Cap and Extend Modification for Disaster Relief below.

Cap and Extend Modification for Disaster Relief Terms

Servicing Guide, Part VII, Section 602.02.05: Conventional Mortgage Loan Modification Terms

The servicer must follow the steps (in order) provided below to determine the borrower's new modified payment terms, regardless of the pre-modification MTM LTV:

1. Capitalize arrearages, as described in the *Servicing Guide*, Part VII, Section 602.02.05: Conventional Mortgage Loan Modification Terms.
2. Retain the existing interest rate structure (e.g., ARM, fixed rate, interest-only, step-rate) in the modified terms.
3. Extend the term in monthly increments up to a maximum of 480 months from the mortgage loan modification effective date, and reamortize the mortgage loan over a term needed to achieve a new modified monthly P&I payment that is as close to the current pre-modification P&I payment as possible (without exceeding the pre-modification P&I payment amount).

If the mortgage loan has deferred principal (principal forbearance amount), that amount must not be capitalized into the interest-bearing unpaid principal balance as part of the Cap and Extend Modification for Disaster Relief. Deferred principal must continue to be deferred and be payable upon maturity of the mortgage loan modification, sale or transfer of the property, or refinance of the mortgage loan. Interest will not accrue on any deferred principal.

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

Servicers are reminded, as required by the *Servicing Guide*, Part VII, Section 602.02.08: Reclassification or Removal of MBS Mortgage Loans Prior to Effective Date of the Mortgage Loan Modification, that a modification of any MBS mortgage loan can only be executed after it has been removed from the MBS pool. For an MBS mortgage loan to be eligible for reclassification or repurchase 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.

Escrow Accounts

Servicing Guide, Part VII, Section 602.03: Escrow Accounts

The servicer must perform an escrow analysis based on estimates prior to offering a Trial Period Plan for the disaster-related modification options described in this Announcement. If the borrower is delinquent on these items, the servicer must revoke any escrow waiver and establish an escrow deposit account in accordance with Fannie Mae's escrow account requirements prior to the beginning of the trial period (described in the *Servicing Guide,* Part III, Section 103: Escrow Deposit Accounts).

However, Fannie Mae will not require the servicer to revoke the escrow waiver for a Streamlined Modification or Cap and Extend Modification for Disaster Relief if the borrower is current on the payments for taxes, special assessments, hazard and flood insurance premiums, premiums for borrower-purchased mortgage insurance, ground rents, and similar items. The servicer is responsible for making any appropriate changes to the Trial Period Plan (including FAQs) regarding an escrow waiver if the borrower is current on escrow payments.

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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 (1-888-326-6435) with any questions regarding this Announcement.

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