

## ***Servicing Guide Announcement SVC-2013-20***

October 11, 2013

### **Delinquency Management and Default Prevention Updates Related to the Consumer Financial Protection Bureau Mortgage Servicing Rules and Other Servicing Responsibilities**

Fannie Mae is updating delinquency management and default prevention servicing policies impacted by certain Consumer Financial Protection Bureau (CFPB) rules and regulations that implement the mortgage servicing provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). This Announcement is not, however, intended to address all CFPB servicing requirements adopted in response to the Dodd-Frank Act. Servicers are expected to comply with all applicable laws including any CFPB-related mortgage servicing requirements not covered below. Unless stated otherwise, the requirements detailed below apply to all mortgage loans secured by all property types (i.e., principal residences, second homes, and investment properties) that are

- held in Fannie Mae's portfolio,
- sold to Fannie Mae for cash and subsequently securitized into Mortgage-Backed Security (MBS) pools (known as Pooled from Portfolio or PFP mortgage loans), or
- sold to Fannie Mae in exchange for MBS that are part of an MBS pool serviced under the special servicing option or a shared-risk MBS pool for which Fannie Mae markets the acquired property.

This Announcement describes policy changes related to the following:

- Borrower Inquiries and Error Resolutions Process
- Borrower Delinquency Management Model
- Payment Change Notification
- *Borrower Solicitation Letter – 31 Days Delinquent* (Form 731)
- Acknowledgement of Borrower Response Package (BRP) and Incomplete Information Notice
- Evaluation Notice
- Appeals Process for the Denials of Mortgage Loan Modifications
- Documentation Required for Forbearance
- Requesting Approval for a Forbearance Extension
- Prereferral to Foreclosure Review
- Referral to Foreclosure
- Delay in Legal Action

### **Effective Date**

The effective date for this Announcement is January 10, 2014, unless stated otherwise.

## Borrower Inquiries and Error Resolutions Process

**Servicing Guide, Part I, Section 202: Servicer’s Basic Duties and Responsibilities; Section 312: Borrower Inquiries; Part VII, Section 102: Quality Assurance Program for Delinquency and Default Prevention; Section 104: Escalated Cases; Section 104.01: Staffing Requirements for Escalated Cases; Section 104.02: Escalation Resolution Process; Section 104.03: Case Resolution; Section 205.08: Evaluation Notices; Chapter 3: Delinquency Prevention; Part VIII, Section 102: Prereferral to Foreclosure Review; Section 103.04: Conventional and RD First-Lien Mortgage Loans; Section 107.01.05: Postponement of Escalated Cases; Section 107.03.01: Certification Prior to Foreclosure Sale**

Fannie Mae is eliminating all the requirements for escalated cases in the *Servicing Guide*.

As a reminder, servicers must have sufficient properly trained staff and adequate controls and quality control policies and procedures in place to carry out all aspects of their servicing duties and responsibilities under the *Servicing Guide* including promptly addressing borrower inquiries and disputes.

In addition to the *Servicing Guide* requirements (in Part I, Section 202: Servicer’s Basic Duties and Responsibilities and Section 312: Borrower Inquiries), servicers must ensure that all processes to respond to borrower inquiries and resolve allegations of servicer errors asserted by borrowers are compliant with applicable law, including timelines for responding to borrowers and any applicable prohibitions on foreclosure referral or foreclosure sale.

The following table describes the information the servicer must provide the borrower when the borrower makes an inquiry to determine the owner or assignee of his or her mortgage loan.

If the mortgage loan is...	Then, the servicer must ...
a mortgage loan securitized into a Fannie Mae MBS pool,	<ul style="list-style-type: none"> <li>▪ indicate the owner of the mortgage loan as “Fannie Mae in its capacity as Trustee”;</li> <li>▪ provide the owner contact address of 3900 Wisconsin Ave, NW, Washington, DC, 20016-2892;</li> <li>▪ provide the contact number of the owner as 1-800-7FANNIE (1-800-732-6643); and</li> <li>▪ provide the six-digit pool number as the Trust identifier. The Fannie Mae Trust identifier for structured deals is the designated trust name (e.g., Fannie Mae REMIC Trust 2005-W2).</li> </ul> <p>NOTE: <i>The six-digit MBS pool number appears in the Servicer's Reconciliation Facility (SURF™) application under the “VIEW LOAN” screen.</i></p>
a mortgage loan held in Fannie Mae’s portfolio,	<ul style="list-style-type: none"> <li>▪ indicate the owner of the mortgage loan as “Fannie Mae”;</li> <li>▪ provide the owner contact address of 3900 Wisconsin Ave, NW, Washington, DC, 20016-2892; and</li> <li>▪ provide the contact number of the owner as 1-800-7FANNIE (1-800-732-6643).</li> </ul>

Servicers must indicate in their communication to borrowers that the owner status of their loan is based upon the servicer's review of its records as of a date certain and that loan ownership status may change from time to time.

## **Borrower Delinquency Management Model**

### ***Servicing Guide*, Part VII, Section 103: Staffing and Training**

Fannie Mae is requiring servicers to develop an approach to managing delinquent borrowers that provides continuity of contact with the borrower and allows a borrower to contact one individual or a dedicated team of individuals in the servicer's organization to obtain accurate information on the various workout options available to the borrower.

When using a team approach, servicers must provide the borrower with the ability to request and speak to, or leave a message for, a specific person from the assigned team.

## **Payment Change Notification**

### ***Servicing Guide*, Part IV, Chapter 4: Notices to the Borrower; Part VII, Section 207: Payment Change Notification, and the *Payment Change Notification Guidelines* exhibit**

The servicer of an adjustable-rate mortgage (ARM) loan must adhere to the notification timeframes in the *Payment Change Notification Guidelines* exhibit (available on [Fannie Mae's website](#)), in addition to any requirements under applicable law or the security instrument, which may have different notice requirements. Furthermore, all servicers must abide by the *Payment Change Notification Guidelines* for all payment changes (not just for dramatic payment increases, as previously required).

Fannie Mae is removing language in Part IV, Chapter 4: Notices to the Borrower of the *Servicing Guide* that states that the notification be mailed in time to reach the borrower at least 60 days before the new monthly payment becomes effective.

## ***Borrower Solicitation Letter – 31 Days Delinquent (Form 731)***

### ***Servicing Guide*, Part VII, Section 203: Outbound Call Attempts; Section 204: Behavioral Model Tool; Section 205.01 Borrower Solicitation Letters; *Collection Call Guidelines Exhibit and Letters and Notices Guidelines Exhibit***

Servicers using a Behavioral Model Tool are now required to mail the first *Borrower Solicitation Letter – 31 Days Delinquent (Form 731)* between days 31 to 35 of delinquency, regardless of the results of the Behavioral Model Tool. Servicers can still use the results of a Behavioral Model Tool to manage their collection call campaigns as permitted by the *Servicing Guide*.

Servicers are reminded that if the borrower does not respond to the first *Borrower Solicitation Letter* or the servicer has been unable to achieve Quality Right Party Contact (QRPC), the servicer must send the second *Borrower Solicitation Letter – 61 Days Delinquent (Form 761)* between days 61 to 65 of delinquency. All Borrower Solicitation Letters must comply with applicable law.

## Acknowledgement of Borrower Response Package (BRP) and Incomplete Information Notice

### ***Servicing Guide*, Part VII, Section 205.06: Acknowledgement of Borrower Response Package; Section 205.07: Incomplete Information Notices**

Fannie Mae is eliminating the option for servicers to provide verbal acknowledgement of receipt of a BRP. Servicers must provide written, rather than verbal, acknowledgement of the receipt of a BRP within five business days of its receipt. If the BRP is incomplete, the servicer has the discretion to combine the Incomplete Information Notice with the acknowledgement of the BRP. The acknowledgment of the BRP and Incomplete Information Notice must also include any other disclosures and information required by applicable law.

## Evaluation Notice

### ***Servicing Guide*, Part VII, Section 205.08: Evaluation Notices**

In addition to the existing requirements in the *Servicing Guide*, if the *Evaluation Notice* is provided to the borrower in response to the first complete BRP relating to a mortgage loan secured by the borrower's principal residence and received by the servicer on or after January 10, 2014, the *Evaluation Notice* must also:

- include a denial reason for any mortgage loan modification trial period plan(s) that is not offered to the borrower; and
- inform the borrower of the right to appeal the denial of any mortgage loan modification trial period plan(s) within 14 days of the date of the *Evaluation Notice* if the complete BRP is received 90 or more days prior to a scheduled foreclosure sale (or if the foreclosure sale date is unknown). The *Evaluation Notice* must also include the requirements for the borrower to appeal the denial of any mortgage loan modification trial period plan(s).

The *Evaluation Notice Model Clauses* posted on [Fannie Mae's website](#) have been updated (except those related to short sale and Mortgage Release™ transactions) to include servicer instructions and related provisions to cover the above requirements. Servicers are reminded that use of the model clauses is optional; however, the model clauses reflect a minimum level of information that the servicer must communicate and illustrate a level of specificity that complies with the requirements of the *Servicing Guide*. A servicer that elects to use the model clauses must revise its letter as necessary to comply with applicable law.

The list of possible outcomes provided to the borrower in the *Evaluation Notice* will no longer include:

- Offer Fannie Mae HAFA preforeclosure sale, and
- Offer Fannie Mae HAFA deed-in-lieu.

The following outcome will be added:

- Non-approval — not eligible for alternative to foreclosure.

## Appeals Process for the Denials of Mortgage Loan Modifications

### ***Servicing Guide*, Part VII, Chapter 1: Servicing Standards**

In addition to existing requirements in the *Servicing Guide*, servicers are required to develop comprehensive processes and written policies and procedures to respond to a borrower's appeal of the denial of any mortgage loan modification trial period plan solely in connection with a borrower's first complete BRP that is received

- on or after January 10, 2014,

- 90 days or more before a scheduled foreclosure sale or if a foreclosure sale date is unknown, and
- with respect to a mortgage loan secured by a principal residence.

The appeal process applies only to a denial of any mortgage loan modification trial period plan(s) if it relates to the first complete BRP and meets all of the above requirements.

NOTE: *A servicer's appeal decision is final and not subject to further appeal. Foreclosure prevention alternatives (workout options) that do not require a complete BRP do not have the right to an appeal.*

### ***Borrower Requirements Relating to an Appeal***

Servicers must confirm that the borrower properly exercised an appeal in connection with a BRP that satisfies the above requirements by ensuring that the borrower, within 14 days of the date of the servicer's *Evaluation Notice*, provides the servicer with a written request for an appeal that includes the borrower's name, property address, and mortgage loan number.

The servicer must inform the borrower that any supporting documentation and specific appeal reason may be submitted at the time the servicer is notified of the appeal.

### ***Servicer Requirements Relating to an Appeal***

Servicers must complete the review of a borrower's appeal using personnel different from those responsible for the initial evaluation of and decision on the complete BRP. Servicers must provide written notice of the appeal decision within 30 days of receipt of the borrower's appeal.

- If the borrower's appeal is received within the 14-day appeal period,
  - the servicer must evaluate the appeal and must accept any new information submitted by the borrower within this timeframe as part of the independent appeal review (whether the information relates to the appeal, i.e., modification denial, or a material change of circumstances unrelated to the appeal).
- If any new information or documentation submitted by the borrower is received after the 14-day appeal period in connection with a borrower's timely appeal but before the appeal decision, or if the borrower's appeal is received after the 14-day appeal period,
  - the servicer must provide written notice of the appeal decision within 30 days of receipt of the borrower's appeal. In these cases, the servicer has the discretion to
    - complete the review with any new information or documentation provided by the borrower as part of the appeals process; or
    - treat the request along with any additional information as part of a new BRP and review the BRP in accordance with existing requirements in Part VII, Section 205: Letters and Part VIII, Section 107: Conduct of Foreclosure Proceedings of the *Servicing Guide*.

If the borrower elects to appeal, the borrower does not have to accept the initial offer for a workout option until resolution of the appeal. If, after review of an appeal, the servicer determines that the borrower was eligible for a loan modification trial period plan for which the borrower had been denied, the servicer must send the borrower an offer for such loan modification trial period plan. In that case, the borrower may choose to accept the initial offer, provided that the borrower continues to be eligible for such offer, or the new loan modification trial period plan offer, and must be given 14 calendar days from the date of the servicer's appeal decision notice to indicate their intent to accept either offer. The borrower's intent to accept an offer may be indicated by verbal or written notification or by making the first trial period plan payment within 14 days, in accordance with the *Servicing Guide*.

If the borrower waits to accept the initial offer until after receiving the appeal decision, the servicer must

- inform the borrower that the mortgage loan will become more delinquent and that any unpaid interest and other unpaid amounts, such as escrows for taxes and insurance, will continue to accrue during the appeal process; and
- adjust the payment amounts and due dates of the initial offer accordingly.

If the borrower waits to accept the initial offer until after receiving the appeal decision, the first payment due date of any new mortgage loan modification trial period plan offer, and the revised first payment due date for the initial offer, is based on when the appeals decision is sent by the servicer to the borrower, and will follow the timelines established for loan modification trial period plans in the *Servicing Guide*, as follows:

- If the servicer sends the appeal decision on or before the 15th of the month, then the trial period plan effective date and the due date of the first trial period payment is the first day of the next month.
- If the servicer sends the appeal decision after the 15th of the month, then the trial period plan effective date and the due date of the first trial period payment is the first day of the month after the next month.

The servicer must track and document all information related to appeals in the mortgage servicing file. Information related to the appeals process must be made available to Fannie Mae upon request.

## Documentation Required for Forbearance

### ***Servicing Guide, Part VII, Section 403: Forbearance; Announcement SVC-2013-16: Updates to Assistance in Disasters***

Servicers must obtain and evaluate a complete BRP if the borrower is offered any forbearance plan with a term greater than six months or if consecutive forbearance extensions exceed six months as measured from the start of the initial forbearance to the projected end of the forbearance extension.

If the borrower is impacted by a disaster and meets the requirements as outlined in Announcement SVC-2013-16 that would have made him or her eligible to receive forbearance for a period of longer than six months, the servicer must initially offer forbearance for six months. If the borrower is unable to provide a complete BRP at the end of the initial six months of disaster-related forbearance, servicers are allowed to offer successive disaster-related forbearance plans up to six months in length, but not to exceed 12 months of disaster-related forbearance in aggregate, without obtaining a complete BRP. Servicers are reminded that any other forbearance arrangement longer than six months, inclusive of any extension, must receive prior written approval from Fannie Mae.

## Requesting Approval for a Forbearance Extension

### ***Servicing Guide, Part VII, Section 403: Forbearance, and Section 403.02.04: Forbearance Extension; Announcement SVC-2012-01: Introduction to Unemployment Forbearance***

Effective immediately, requests for forbearance extensions will now be reviewed by Fannie Mae's Loss Mitigation Department. Servicers must no longer send forbearance extension requests to Portfolio Managers, Servicing Consultants, or the National Servicing Organization's Servicer Solutions Center. All new forbearance extension requests must be submitted to the following mailbox: [forbearance\\_ext\\_requests@fanniemae.com](mailto:forbearance_ext_requests@fanniemae.com). The Loss Mitigation Department will notify servicers of decisions on forbearance extension requests via email.

Fannie Mae is also introducing a new form titled, *Forbearance Extension Request Form*, which is located on [Fannie Mae's website](#). For all forbearance extension requests, servicers must complete and submit a *Forbearance Extension Request Form* with supporting documentation to Fannie Mae. (This form replaces the

Unemployment Forbearance Policy Form formerly used to request extensions for an Unemployment Forbearance.)

## Prereferral to Foreclosure Review

***Servicing Guide*, Part VIII, Section 102: Prereferral to Foreclosure Review; Section 107.03.01: Certification Prior to Foreclosure Sale; and Chapter 1, Exhibit 2: Expected Servicer/Attorney (or Trustee) Interaction**

Currently, servicers must perform a prereferral to foreclosure review at least 7 days prior to the date by which the servicer is required to refer the mortgage loan to foreclosure. Fannie Mae is changing this timeframe. Servicers must now perform a prereferral to foreclosure review within 15 days prior to the date by which the servicer is required to refer the mortgage loan to foreclosure.

## Referral to Foreclosure

***Servicing Guide*, Part VII, Section 205.09: Breach or Acceleration Letters; Part VIII, Section 102: Prereferral to Foreclosure Review; Section 103.04: Conventional and RD First-Lien Mortgage Loans; Section 107.03.01: Certification Prior to Foreclosure Sale**

The following updated requirements for referral to foreclosure are only applicable to mortgage loans secured by a principal residence.

Servicers must refer the mortgage loan to foreclosure no earlier than day 121 of delinquency but no later than 5 business days after day 121 of delinquency, unless applicable law permits earlier referral. If the servicer determines, in accordance with applicable law, that the property securing the mortgage loan is not or is no longer the borrower's principal residence, the servicer must refer the mortgage loan to foreclosure prior to day 121 of delinquency as stated in the *Servicing Guide*.

During any prereferral to foreclosure review period or before the servicer has made the first notice or filing required by applicable law for any judicial or non-judicial foreclosure process, the servicer must not refer the mortgage loan to foreclosure under any of the following circumstances:

- there is an approved payment arrangement for a workout option;
- a complete BRP is received and the servicer is within the 30-day time period for evaluating the BRP;
- the servicer has extended an offer for a workout option and the borrower's response time period has not expired;
- the borrower is conditionally approved for mortgage payment assistance under the federal Hardest Hit Fund program;
- the borrower has accepted an offer for a workout option and is performing in accordance with its terms; or
- the time period for the borrower to exercise any right of appeal as described above has not expired, the servicer is evaluating the borrower's appeal, or the time period following the servicer's appeal decision for the borrower to accept any offer for a workout option has not expired.

## Delay in Legal Action

***Servicing Guide, Part VIII, Section 103.04: Conventional and RD First-Lien Mortgage Loans; Section 107.01: Servicer-Initiated Temporary Suspension of Proceedings; Section 107.01.01: Borrower Response Package Received Within 30 Days of Post Referral to Foreclosure Solicitation Letter; Section 107.01.02: Borrower Response Package Received After 30-Day Response Period But Before 37 Days Prior to the Foreclosure Sale Date; Section 107.01.05: Postponement of Escalated Cases; Announcement SVC-2012-19: Standard Short Sale/Hafa II and Deed-in-Lieu of Foreclosure Requirements; Announcement SVC-2012-25: Mortgage Release™ (Standard Deed-in-Lieu of Foreclosure and Deed for Lease) Requirements and Updates to Standard Short Sale/Hafa II Requirements***

The following updated requirements for delay in legal action are only applicable to the first complete BRP submitted by the borrower that is

- related to a mortgage loan secured by a principal residence, and
- received by the servicer on or after January 10, 2014.

If the borrower's first complete BRP is received after referral to foreclosure and more than 37 days prior to the foreclosure sale date, then the servicer must delay filing the motion for foreclosure judgment or order of sale, or if the motion for foreclosure judgment or order of sale has been filed, the servicer must request the court to delay a hearing or ruling as permitted under state or local law unless

- the servicer has reviewed the first complete BRP and delivered an *Evaluation Notice* to the borrower stating that the borrower is not eligible for a workout option and, if applicable, the borrower has not requested an appeal or the borrower's appeal has been denied in accordance with the requirements of this Announcement; or
- the borrower rejects all workout options offered by the servicer; or
- the borrower fails to perform under an agreement on a workout option.

These requirements are applicable to all workout options including short sale and Mortgage Release. Additional guidance related to short sale and Mortgage Release transactions (including updated *Evaluation Notice Model Clauses*) will be published at a later date.

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

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