**Announcement SVC-2011-07** **June 6, 2011**

# Updates to Foreclosure Time Frames and Imposition of Compensatory Fees

## Introduction

On April 28, 2011, the Federal Housing Finance Agency (FHFA) directed Fannie Mae and Freddie Mac to establish consistent mortgage loan servicing and delinquency management requirements. Consistent with the directive, this Announcement communicates to Fannie Mae servicers clear and consistent expectations regarding the maximum allowable time frame to complete the foreclosure process, and standardized requirements for determining compensatory fees for mortgage loans that are held in Fannie Mae's portfolio or that are part of an MBS pool that has the special servicing option or a shared-risk MBS pool for which Fannie Mae markets the acquired property.

### Updates to Allowable Foreclosure Time Frames

With this Announcement, Fannie Mae has updated the maximum number of allowable days within which routine foreclosure proceedings are to be completed in each jurisdiction as provided in the *Servicing Guide,* Part VIII, Section 104.08: Allowable Time Frames for Completing Foreclosure, and in *Foreclosure Time Frames* on eFannieMae.com.

The maximum number of allowable days within which foreclosure proceedings are to be completed denotes the maximum allowable time lapse between the day the case is referred to the attorney (or trustee) to commence a foreclosure action, and the completion of the foreclosure sale in each jurisdiction. The maximum allowable time lapse represents the time typically required for routine, uncontested foreclosure proceedings, given the legal requirements of the applicable jurisdiction, and takes into consideration delays that may occur outside of the control of the servicer.

Effective as of January 1, 2011, any Fannie Mae mortgage loan referred to an attorney (or trustee) to initiate foreclosure proceedings must not exceed the revised maximum number of allowable days within which routine foreclosure proceedings are to be completed as referenced in *Foreclosure Time Frames*.

Fannie Mae monitors the servicer's management of the foreclosure process by reviewing each mortgage loan for which action was expected to be completed. Fannie Mae will utilize the delinquent loan status code data and other information collected from the servicer during other interactions to identify delays in the foreclosure process. If the number of days within which foreclosure proceedings for a mortgage loan are completed exceeds the maximum number of allowable days, and no reasonable explanation for the delay is provided to Fannie Mae through monthly delinquency status reporting or other information exchange protocols, Fannie Mae will require the servicer to pay a compensatory fee as outlined below. Examples of reasonable explanations for delays include bankruptcy; probate; military indulgence; contested foreclosure; cases where the mortgage loan is currently in review for the Home Affordable Modification

Program or is in an active modification trial plan; or recent legislative, administrative, or judicial changes to existing state foreclosure laws – provided that the servicer is diligently working toward resolution of the delay to the extent feasible. Fannie Mae will not impose compensatory fees for delays beyond the control of the servicer, provided that the delinquency status codes reported by the servicer on the loan are timely and accurate.

Fannie Mae will continue to monitor foreclosure time frames and will periodically, pursuant to FHFA's direction, adjust the time frame expectations on eFannieMae.com accordingly. Servicers are encouraged to review this information on a regular basis for updates.

## Imposition of Compensatory Fees

If the servicer fails to complete a foreclosure action within the time frame prescribed by Fannie Mae, Fannie Mae will impose a compensatory fee (as provided in the *Servicing Guide*, Part I, Section 201.10: Imposition of Compensatory Fees) to remediate a specific problem or to improve the servicer's overall performance.

Effective for all mortgage loans with a foreclosure sale date on or after January 1, 2011, compensatory fees will be assessed if the entire period from the date the delinquency began (Last Paid Installment date) through the foreclosure sale date is longer than Fannie Mae's maximum number of allowable days from foreclosure referral date to foreclosure sale for the applicable jurisdiction, PLUS the number of days by which a servicer is required to refer a delinquent mortgage loan to an attorney (or trustee) to commence foreclosure.

Fannie Mae has the right to rely on the delinquent loan status data submitted by the servicer as definitively and conclusively reflecting the status of a loan for purposes of the assessment and collection of compensatory fees for delays in liquidating delinquent loans. Accordingly, Fannie Mae may choose to reject any information provided by the servicer to support a status code that is different from the one reported.

Compensatory fees will be applied based on the unpaid principal balance of the mortgage loan, the applicable pass-through rate, the length of the delay, and any additional costs that are directly attributable to the delay. Compensatory fees will not be assessed if a servicer's aggregate amount of monthly compensatory fees is $1,000 or less.

Fannie Mae reserves the right to review all seriously delinquent mortgage loans currently in the default management process and to pursue remedies on such mortgage loans, when it deems appropriate, which may be prior to liquidation of the loan. Such remedies may include, for example, indemnification, compensatory fees for delays that occur prior to foreclosure sale, or sanctions (including monetary sanctions).

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

**Note:** The *Servicing Guide* references in this Announcement refer to the June 10, 2011 version of the *Servicing Guide* that will be available at that time.

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