

## ***Servicing Guide Announcement SVC-2014-09***

May 30, 2014

### **Updates to Short Sale and Mortgage Release™ (Standard Deed-in-Lieu of Foreclosure) Requirements**

This Announcement describes the following Fannie Mae short sale and Mortgage Release policy updates and clarifications:

- streamlined documentation for short sale and Mortgage Release eligibility;
- expanded eligibility requirements for servicemembers with permanent change of station (PCS) orders;
- documenting borrower's intent to pursue a short sale or Mortgage Release;
- non-retirement liquid assets and borrower contribution requirements;
- review of credit report for new mortgage loans;
- counteroffer response timeframe;
- addition to *Short Sale Affidavit* (Form 191);
- submission of short sales involving relocation programs;
- subordinate lien payment limitations;
- additional limitation for short sales;
- remittance of short sale proceeds;
- property inspection prior to Mortgage Releases; and
- relocation incentives.

In addition, Fannie Mae is updating its distant employment transfer/relocation hardship requirements, which apply to all foreclosure prevention alternatives.

#### ***Effective Date***

Servicers are encouraged to implement the requirements in this Announcement immediately; however, servicers are required to implement these changes by August 1, 2014, unless otherwise noted in this Announcement.

## Streamlined Documentation for Short Sale and Mortgage Release Eligibility

***Servicing Guide, Part VII, Section 604: Preforeclosure Sales and Section 606: Deeds-in-Lieu of Foreclosure; Servicing Guide Announcement SVC-2012-19, Standard Short Sale/Hafa II and Deed-in-Lieu of Foreclosure Requirements and 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***

Fannie Mae is adding a requirement that, at the time the servicer evaluates potential streamlined documentation candidates for short sale or Mortgage Release, the servicer must screen the mortgage loan against the *Non-Eligible List*, located on [Fannie Mae's website](#). Any mortgage loans that are found on this list are not eligible for streamlined documentation short sales or streamlined documentation Mortgage Releases. Fannie Mae updates this list on a monthly basis. (Further details about the list and directions on how to obtain access are available on [Fannie Mae's website](#).)

If a mortgage loan is on Fannie Mae's *Non-Eligible List*, the servicer must pursue receipt of the Borrower Response Package (BRP) to evaluate the borrower for standard short sale or Mortgage Release.

As a reminder, Fannie Mae's eligibility requirements for streamlined documentation short sale or streamlined documentation Mortgage Release are as follows:

- the property must not be an investment property as determined by occupancy type at origination;
- the borrower is 90 days or more delinquent; and
- one of the following conditions has been met as of the evaluation date:
  - the borrower's FICO<sup>®</sup> score is less than 620; or
  - the debt secured by the borrower's mortgage has been discharged in a bankruptcy proceeding filed pursuant to Chapter 7 of the U.S. Bankruptcy Code.

Effective with this Announcement, Fannie Mae is defining the documentation necessary to evidence that a mortgage debt has been discharged in a Chapter 7 bankruptcy. The servicer must obtain proof that the mortgage loan was included in the borrower's Chapter 7 bankruptcy filing, such as notification from the court or a copy of the order of discharge showing the mortgage loan as discharged. Electronic records are acceptable to fulfill this requirement.

## Expanded Eligibility Requirements for Servicemembers with PCS Orders

***Servicing Guide, Part VII, Section 604.02: Contacting Selected Borrowers; Servicing Guide Announcement SVC-2012-19, Standard Short Sale/Hafa II and Deed-in-Lieu of Foreclosure Requirements and 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***

Fannie Mae is expanding its eligibility requirements for servicemembers with PCS orders who are seeking a short sale or a Mortgage Release but who no longer occupy the property being evaluated for the short sale or Mortgage Release transaction. The following eligibility requirements are currently afforded to servicemembers with PCS orders who occupy the property as a primary residence and will now also apply to servicemembers with PCS orders who have moved from a primary residence that was purchased on or before June 30, 2012:

- exemption from total monthly debt-to-income ratio requirements, and
- no contribution evaluation or contribution required.

## Documenting Borrower's Intent to Pursue a Short Sale or Mortgage Release

### ***Servicing Guide Announcement SVC-2013-23, Delinquency Management and Other Servicing Responsibilities***

Fannie Mae is adding a new requirement with respect to a borrower's intent to pursue a short sale or Mortgage Release. As a reminder, either a written or verbal indication of intent to pursue a short sale or Mortgage Release are acceptable; however, the servicer must now document the mortgage loan servicing file with the borrower's indication of intent and provide evidence of such documentation to Fannie Mae upon request.

## Non-Retirement Liquid Assets and Borrower Contribution Requirements

### ***Servicing Guide, Part VII, Section 604: Preforeclosure Sales; Section 604.01: Identifying Potential Candidates; Section 604.02: Contacting Selected Borrowers; Section 606: Deeds-in-Lieu of Foreclosure; Servicing Guide 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; and Announcement SVC-2013-23: Delinquency Management and Other Servicing Responsibilities.***

As stated in Announcement SVC-2013-23, if a borrower has non-retirement liquid assets greater than \$50,000, the servicer must submit the short sale or Mortgage Release to Fannie Mae for prior written approval. The servicer is now required to specify that the borrower has non-retirement liquid assets greater than \$50,000 when it submits the case in HomeSaver Solutions™ Network (HSSN). Specifically, the servicer must enter the dollar amount, as applicable, in the "assets" fields in HSSN.

Currently servicers are permitted to negotiate cash contributions in any dollar amount. Fannie Mae is introducing a new requirement establishing a minimum cash contribution amount of \$500. The servicer is not required, however, to collect a cash contribution if it determines that a borrower's circumstances do not warrant one.

Fannie Mae is clarifying the contribution evaluation process. Currently, if a contribution evaluation for either cash or a promissory note is required (cash reserves are in excess of the greater of \$10,000 or six times the contractual monthly mortgage loan payment, or the borrower's debt-to-income ratio is less than 55%), the servicer determines if the borrower has the capacity to make a contribution and whether it is appropriate for the servicer to make an initial contribution request.

Effective with this Announcement, Fannie Mae is making the servicer's initial request for a contribution mandatory if a contribution evaluation is required. With this change, for borrowers who are 30 days or more delinquent, if a contribution evaluation is required:

- The servicer must make the initial contribution request as determined by the cash contribution and promissory note formulas, not to exceed the deficiency unless a contribution is prohibited by applicable law.
- If the borrower is unable to contribute the initial amount requested, the servicer is authorized to negotiate a lower contribution, or agree that circumstances warrant no contribution.
- The servicer must document the rationale for accepting a lower contribution amount, or no contribution, in the mortgage loan servicing file. The fact that the borrower is unwilling to contribute the amount requested by the servicer is not a sufficient rationale for accepting a contribution amount lower than that requested by the servicer.
- If the borrower is not willing to make a contribution that the servicer deems the borrower can reasonably make, the servicer must submit the case to Fannie Mae to review.

As a reminder, for borrowers evaluated under the imminent default standard, if the borrower is unwilling or unable to contribute 20% of their cash reserves, the servicer must request approval from Fannie Mae to accept less than the 20% borrower contribution. If, however, the borrower's hardship is death of the primary wage earner, the servicer is authorized to negotiate a borrower's cash contribution for less than 20% of the cash reserves, but must provide an explanation in the mortgage loan servicing file of the specific circumstance that limited the borrower's ability to make a contribution.

## Review of Credit Report for New Mortgage Loans

***Servicing Guide, Part VII, Section 604.02: Contacting Selected Borrowers and Section 606: Deeds-in-Lieu of Foreclosure; Servicing Guide Announcement SVC-2012-19, Standard Short Sale/HAFAs II and Deed-in-Lieu of Foreclosure Requirements and Announcement SVC-2012-25, Mortgage Release™ (Standard Deed-in-Lieu of Foreclosure and Deed for Lease) Requirements and Updates to Standard Short Sale/HAFAs II Requirements***

Currently, the servicer must review a borrower's credit report for new mortgage loans obtained only during the term of the borrower's financial hardship. Fannie Mae will now only require the servicer to review a borrower's credit report on all fully documented short sale and Mortgage Release cases to determine:

- if the borrower(s) obtained a new mortgage in the six months preceding the borrower's delinquency on the subject mortgage; or
- in the case of a current mortgage loan, in the six months preceding the evaluation for a short sale or Mortgage Release.

If the servicer determines that the borrower obtained a new mortgage in the six months leading up to the delinquency, (or preceding the evaluation for a short sale or Mortgage Release, as applicable), the servicer is authorized to approve the case for the subject mortgage property only if the hardship was due to a distant employment transfer, new employment, or receipt of PCS orders, as currently provided for in the Guide. If the borrower has a hardship other than distant employment transfer, new employment or receipt of PCS orders, the servicer must submit the case to Fannie Mae for written approval. This new requirement does not apply to streamlined documentation cases.

## Counteroffer Response Timeframe

***Servicing Guide, Part VII, Section 604.02: Contacting Selected Borrowers; Servicing Guide Announcement SVC-2012-07: Changes to Servicer Response Times and the Preforeclosure Sale Process***

When a borrower submits a first complete BRP on a principal residence on or after January 10, 2014 and more than 37 days prior to the foreclosure sale date, the servicer must not require the borrower to respond to a short sale counteroffer prior to the end of the timeframe for the borrower's response to the Evaluation Notice. Specifically, the servicer must request a counteroffer response from the borrower by the later of either:

- five business days from the servicer's or Fannie Mae's short sale counteroffer; or
- in cases where the servicer is providing an Evaluation Notice in response to the first complete BRP, the date by which the borrower's response to the Evaluation Notice is due.

## **Addition to *Short Sale Affidavit***

### ***Servicing Guide Announcement SVC-2012-19, Standard Short Sale/HAFAs II and Deed-in-Lieu of Foreclosure Requirements***

Fannie Mae has revised the *Short Sale Affidavit* ([Form 191](#)) to include an attestation by the seller's real estate agent that all purchase offers have been presented to the borrower. This attestation will help ensure that the seller's agent does not withhold purchase offers and maximizes the number of competitive offers in short sale transactions.

## **Submission of Short Sales Involving Relocation Programs**

### ***Servicing Guide Announcement SVC-2012-19, Standard Short Sale/HAFAs II and Deed-in-Lieu of Foreclosure Requirements***

In Announcement SVC-2012-19, Fannie Mae updated its short sale requirements to include a resale deed restriction. With this Announcement, Fannie Mae will waive the resale deed restriction requirement in connection with the following programs:

- Homeowners Assistance Program (HAP) provided by the Department of Defense, or
- a purchase that is the result of an employer relocation program.

If a short sale falls into either of these categories and the purchaser requests a waiver of the deed restriction requirement, the servicer must submit the mortgage loan to Fannie Mae for prior written approval.

## **Subordinate Lien Payment Limitations**

### ***Servicing Guide Announcement SVC-2012-19, Standard Short Sale/HAFAs II and Deed-in-Lieu of Foreclosure Requirements***

Fannie Mae is revising its policy on subordinate lien payments for short sales or Mortgage Releases to prohibit use of the \$6,000 from the sale proceeds to settle non-mortgage liens. The \$6,000 in available subordinate lien release funds must be used only for subordinate mortgages or deeds of trust recorded in the land records that constitute a valid lien against the property. The \$6,000 in available funds must not be used for other types of liens, including but not limited to:

- homeowners' association (HOA) liens,
- judgments,
- mechanic's liens, and
- materialmen's liens.

If such other liens impede the closing of a short sale or Mortgage Release, the servicer must submit the case to Fannie Mae for prior written approval. As a reminder, the servicer is required to protect the priority of Fannie Mae's mortgage lien and must clear priority liens for delinquent HOA dues and condo assessments on properties acquired through foreclosure or deed-in-lieu of foreclosure as outlined in Announcement SVC-2012-05, *Payment of Homeowners' Association Dues and Condo Assessments* and related sections of the *Servicing Guide*.

## **Additional Limitation for Short Sales**

### ***Servicing Guide Announcement SVC-2012-19, Standard Short Sale/Hafa II and Deed-in-Lieu of Foreclosure Requirements***

Fannie Mae is adding a new requirement for all short sales where the borrower is now prohibited from being the listing agent on the subject property or from selling the subject property without an agent. All short sales must be listed with a licensed real estate professional who is not the borrower.

## **Remittance of Short Sale Proceeds**

### ***Servicing Guide, Part VII, Section 604.07: Accounting and Reporting; Servicing Guide Announcement SVC-2012-19, Standard Short Sale/Hafa II and Deed-in-Lieu of Foreclosure Requirements***

Fannie Mae is adding a new requirement that the servicer must remit the short sale proceeds to Fannie Mae within two business days of the servicer's receipt of the net sale proceeds, but no later than three business days after the short sale closing.

## **Property Inspection Prior to Mortgage Releases**

### ***Servicing Guide, Part III, Section 304: Preforeclosure Inspections; Servicing Guide 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***

Fannie Mae is adding a new requirement regarding the final comprehensive property inspection for a Mortgage Release. If, at the time of the final property inspection, the borrower has left personal property with an actual cash value (sometimes referred to as garage sale value) less than \$500, the servicer is authorized to proceed with the Mortgage Release. If the borrower has left personal property with a cash value greater than or equal to \$500, then the servicer must seek Fannie Mae's prior written approval before completing a Mortgage Release.

## **Relocation Incentives**

### ***Servicing Guide Announcement SVC-2012-19, Standard Short Sale/Hafa II and Deed-in-Lieu of Foreclosure Requirements and 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***

Currently, if a contribution evaluation is required and the borrower does not make a contribution, the borrower is entitled to a relocation incentive. Fannie Mae is updating its policy to state that if a contribution evaluation is required and if the servicer is unable to obtain a contribution when it has determined that the borrower could reasonably make one, the borrower is not automatically entitled to receive the relocation incentive payment. If the servicer believes relocation assistance is warranted despite the borrower's failure to contribute, the servicer must submit its relocation assistance recommendation to Fannie Mae for prior written approval.

## **Distant Employment Transfer/Relocation Hardship – All Foreclosure Prevention Alternatives**

### ***Servicing Guide Announcement SVC-2012-18, Updates to Delinquency Management and Default Prevention Requirements; Announcement SVC-2012-19, Standard Short Sale/Hafa II and Deed-in-Lieu of Foreclosure Requirements and Announcement SVC-2012-25, Mortgage Release™ (Standard Deed-***



***in-Lieu of Foreclosure and Deed for Lease) Requirements and Updates to Standard Short Sale/HAFAs II Requirements***

Effective immediately, a borrower moving to seek prospective employment will no longer qualify for the distant employment transfer/relocation hardship. A borrower who relocates without a verifiable job offer or job transfer must identify the hardship reason that resulted in his/her decision to relocate, as applicable. Fannie Mae has updated the *Uniform Borrower Assistance Form* ([Form 710](#)) to reflect this change.

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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.

Leslie A. Peeler  
Senior Vice President  
National Servicing Organization