



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

October 28, 2013

MORTGAGEE LETTER 2013-39

To All Approved Mortgagees, Single Family Servicing Managers

Subject Methods of Communication with Borrowers

Purpose The purpose of this Mortgagee Letter is to provide updates to HUD’s policies on communicating with borrowers whose loans are delinquent or in default. These updates promote prompt and effective contact with FHA borrowers and will help to ensure that these borrowers are able to communicate with their servicers regarding their delinquencies and any available loss mitigation assistance. Specifically, this Mortgagee Letter addresses:

- Timelines and methods for communicating with borrowers;
- Policies for engaging borrowers early in their delinquency;
- Specialized collection techniques for early payment defaults and re-default; and
- FHA’s expectation for servicers to have written escalation processes and procedures.

Effective Date These updates are effective for all mortgages in default as of January 1, 2014.

Affected Policy The policies set forth in this Mortgagee Letter modify or supersede, where there is conflict, the following sections of HUD Handbook 4330.1, Rev-5, *Administration of Insured Home Mortgages*:

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**Collection
Communication
Timeline**

Prompt and effective contact with all delinquent borrowers is essential in ensuring that delinquencies are properly addressed. This includes ensuring that notices and communications are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. Servicers must also ensure that their contact attempts are adequately documented in their servicing files. The Collection Communication Timeline below reflects FHA’s policies regarding servicers’ actions to contact a delinquent borrower and gather information about a borrower’s circumstances, intentions, and financial condition.

Day	Servicer Action
1	Payment due date; no action required until the loan becomes delinquent.
20	By this date, servicers should have commenced telephone contact with borrowers who are delinquent on their mortgages. Servicers should call a minimum of two times per week at varying times and days of the week, <u>until contact is established</u> or until the servicer determines that the property is vacant or abandoned.
25	Send letters or electronic communications or both to borrower to collect amounts due.
30	Report delinquency using Status Code 42 and Default Reason Code 31 (“Unable to Contact Borrower,” if applicable) in FHA’s Single Family Default Monitoring System (SFDMS).
32	Beginning on the 32 nd day, but no later than the 45 th day from the date payment was due, send a: <ul style="list-style-type: none"> • Notification to borrower(s) of the availability of housing counseling; and • Service members’ Civil Relief Act (SCRA) Notice (see Mortgagee Letter 2006-28). Beginning on the 32 nd day but, no later than the 60 th day from the date payment was due, send the: <ul style="list-style-type: none"> • Cover Letter (see HUD Handbook 4330.1 Rev-5, Appendix 19: Avoiding Foreclosure), including the information on the servicer’s loss mitigation or customer assistance hotline, servicer’s mailing address, and any assigned personnel; and • “Save your Home: Tips to Avoid Foreclosure” pamphlet (HUD-2008-5-FHA).

45	<p>By this date, the servicer's files should reflect attempts to contact borrower(s) by phone. Beginning on the 45th day after the date payment was due, if the servicer has received the borrower's financial information, the servicer should commence its analysis of those financials to identify appropriate loss mitigation options.</p> <p>If unable to reach the borrower, the servicer must perform a visual inspection of the mortgaged property to determine if it is vacant or abandoned. This action should be completed no later than 60 days after the date payment was due.</p>
61	<p>Attempt a face-to-face-interview with the borrower no later than this date, unless exempt under 24 CFR 203.604(c).</p>
90	<p>Report the appropriate Default Reason Code for the default in FHA's SFDMS, in accordance with Mortgagee Letter 2013-15.</p>

HUD reserves the right to alter this timeline as needed as borrower communication technology advances.

**Early
Engagement in
Loss Mitigation**

FHA's loss mitigation timelines are outlined in 24 CFR 203.355. Servicers must take loss mitigation action (or commence foreclosure, if loss mitigation is not feasible) within six months of the date of default, or within such additional time approved by HUD; accordingly, servicers must become proactive early in the borrower's default to meet this requirement.

As detailed in the Collection Communication Timeline, a servicer should be prepared to implement a loss mitigation option by the 90th day of delinquency-meaning that an approved loss mitigation option agreement should be ready for the borrower's review by that date-provided that the servicer has received the borrower's financial information. Therefore, FHA strongly suggests that as early as the 45th day of delinquency, servicers begin evaluating borrowers for appropriate loss mitigation options, and accordingly, contact with delinquent borrowers must be made early in the delinquency.

While a servicer may not be held responsible if a borrower fails to respond to repeated contact efforts, the servicer's files must evidence efforts to reach the borrower early in his/her delinquency and to take the appropriate loss mitigation action.

**Notification of
Other Parties
to the Mortgage**

HUD requires that all parties on the mortgage be advised of a default. Therefore, for mortgages in default, servicers are responsible for contacting each borrower on the mortgage, whether or not that borrower occupies the mortgaged property, and HUD considers it prudent servicing that a notification of default also be sent to any co-signers.

**Staffing for
Timely
Responses to
Borrowers**

Pursuant to 24 CFR 202.5(b), servicers must employ competent personnel trained to perform their assigned responsibilities in consumer or mortgage lending, including origination, servicing, and collection activities, and must maintain adequate staff and facilities to originate and service mortgages or Title I loans, in accordance with applicable regulations. Accordingly, a servicer's Loss Mitigation Department should be adequately staffed to:

- ensure that each borrower is reviewed for loss mitigation no later than 30 days after his/her request is submitted to the servicer, provided that the request is received more than 37 calendar days from the scheduled foreclosure sale date and that the request includes all required documentation;
- ensure thorough and accurate review of a borrower's request for loss mitigation when the request is received fewer than 37 calendar days prior to the scheduled foreclosure sale date; and
- comply with timelines and other federal requirements associated with providing accurate and timely responses to borrower inquiries, notifying borrowers of eligibility or denial of loss mitigation options, and employing any applicable appeals processes offered by the servicer.

HUD encourages servicers to adopt staffing models designed to decrease the time it takes for borrowers to receive decisions on loss mitigation actions. Personnel designated to respond to a borrower's inquiries and to assist him/her with loss mitigation options should be assigned promptly after the borrower submits his/her request for loss mitigation assistance, but no later than the 45th day of delinquency. The contact information of the servicer's loss mitigation or customer assistance hotline, with representatives offering direct phone access to assigned loss mitigation personnel, should be provided to delinquent borrowers in the Cover Letter to be sent beginning on the 32nd day of delinquency.

**Collection
Letters and
Automatic
Notices**

To collect amounts due, servicers may mail letters to delinquent borrowers or contact them by telephone or through electronic methods of communication. Mail or electronic communication attempts must occur on or after the 20th day of delinquency.

Personalized communications are preferred. However, if form letters are used, servicers should develop procedures to avoid sending the same letter repeatedly to the same borrower.

**Electronic
Methods of
Communication**

Acceptable methods of electronic communication include:

- Email;
- Secure web portals (such as online account management tools accessible by borrowers); and
- Other reliable communication methods through which the servicer has been able to effectively communicate with borrowers in the past.

These electronic communications should include the servicer's email address, telephone number, and/or website address so that borrowers are able to easily contact the appropriate servicer staff. Electronic methods of communication, including the use of websites and web portals, should be accessible to persons with disabilities.

**Selecting
Method of
Communication
for Letters and
Automatic
Notices**

HUD encourages servicers to use the methods most likely to achieve substantive communication with each borrower. For example:

- If a borrower has expressed a preference for receiving electronic communications from the servicer and has regularly received email correspondence in the past, an email regarding the delinquency would be an appropriate method of contact.
 - If a servicer has primarily contacted a borrower through hard copy letters and has not communicated with the borrower through email, email would not be an appropriate method of contact in this instance.
 - In selecting the appropriate method of contact, servicers should adopt policies that provide effective communications for persons with hearing, visual, and other communications-related disabilities.
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**Outbound
Collection
Communication**

HUD strongly encourages servicers to have written policies for outbound collection calls, providing for:

- A minimum of two calls per week beginning on the 17th day of delinquency until contact is established, for delinquent borrowers whose loans are at low risk of foreclosure (*A servicer may discontinue these calls if the servicer has performed an occupancy inspection and has determined that the mortgaged property is vacant or abandoned. Documentation regarding vacancy or abandonment must be included in the servicing file, and the servicer should continue to make other reasonable attempts to locate and contact the non-occupant borrower.*)
- Variation in the times and days of the week of call attempts to maximize the likelihood of making contact with the borrower(s); and
- Methodologies for assessing employees' compliance with the servicer's Outbound Collection Communication policies. These methodologies must be included in the servicer's Quality Control Plans. (See Section 7-12-L of HUD Handbook 4060.1, *Mortgagee Approval Handbook*).

Electronic communications may be used to supplement telephone contact attempts, but are not to be solely relied upon in attempting to establish contact with the borrower.

**Inbound
Collection
Communication**

HUD strongly encourages servicers to have written policies for inbound calls and electronic communications for their departments that perform the following activities:

- Customer Service
- Loss Mitigation
- Foreclosure Prevention
- Collections

These policies for inbound calls and electronic communications should aim to:

- Reduce the call abandon rate;
- Minimize the call wait time; and
- Reduce the servicer's time to respond to borrower's electronic communications.

Servicers' policies should also ensure effective communications with persons with disabilities who use relay services.

Servicers must include in their Quality Control Plans their methodologies for assessing their compliance with their Inbound Communication policies. See Section 7-12-F of HUD Handbook 4060.1.

**Specialized
Collection
Techniques for
Early Payment
Defaults and
Re-defaults**

Servicers must pay special attention to borrowers at risk of early payment default and re-default. Early Payment Default (EPD) occurs when a mortgage becomes 60 days past due within the first six months of the mortgage term. Re-defaults occur when a mortgage goes into default within six months after the use of a loss mitigation option.

For borrowers at risk of early payment default or re-default, servicers must:

- Commence telephone contacts by the 10th day after the first missed payment to discourage further delinquency;
- Make a minimum of two calls per week after the 10th day of delinquency, until:
 - Contact is established;
 - The servicer determines that the phone contact information is inaccurate; or
 - The servicer determines that the borrower's phone line has been disconnected.

- Make reasonable efforts to obtain an alternate phone number and/or follow up with the borrower using other methods of communication until contact is established, if the phone contact information is inaccurate or the phone line has been disconnected.

Servicers are encouraged to utilize a variety of communication methods, including mailed letters and electronic communications, to ensure early personal contact with borrowers whose loans are delinquent or in default.

Definition of “Escalated Case”

Escalated Cases are those written borrower inquiries and complaints that include allegations of:

- Improper analysis of borrower information or denials of loss mitigation options;
 - Foreclosures initiated or continued in violation of HUD’s policy; or
 - Any other violations of HUD Collections and Loss Mitigation policies, as stated in HUD Handbook 4330.1 Rev-5 and in HUD’s published mortgagee letters.
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Requests for Escalation

Cases must be escalated to a servicer’s designated escalation team at the written request of:

- HUD staff, or
 - The borrower or borrower’s authorized third party representative.
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Escalation Process

HUD strongly encourages servicers to have written policies providing for timely responses to borrower inquiries and complaints that rise to the level of an “Escalated Case.”

These policies should, at a minimum:

- Designate which staff members will be responsible for resolving Escalated Cases. These staff members must:
 - Not be the same staff members responsible for the first evaluation of the loss mitigation application; and
 - Have access to borrowers’ servicing files.
- Provide for timely responses to Escalated Cases. Specifically, within 7 days of categorizing a borrower’s inquiry or complaint as an “Escalated Case”, the servicer should notify the borrower in writing that his inquiry and/or complaint has been escalated and that a resolution to his case will be provided no later than 30 days from the date of escalation.
 - If the servicer is unable to resolve an Escalated Case within 30 days, the servicer must send the borrower written updates on the status of his/her case every 15 days until the case is resolved.

- Servicers should also provide borrowers with the direct contact information of the department and/or staff member responsible for resolving its Escalated Cases.
 - Include methodologies for assessing a servicer’s compliance with its escalation policies. These methodologies must be included in a servicer’s Quality Control Plan. See Section 7-12-L of HUD Handbook 4060.1.
 - Detail the servicer’s process for resolving Escalated Cases and managing foreclosure activity when a foreclosure sale has been scheduled.
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**Information
Collection
Requirements**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number, 2502-0589. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

Questions

Any questions regarding this Mortgagee Letter may be directed to HUD’s National Servicing Center (NSC) at (877) 622-8525. Persons with hearing or speech impairments may reach this number by calling the Federal Information Relay Service at (800) 877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature

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