

**Announcement SVC-2011-08R****September 2, 2011****Delinquency Management and Default Prevention (Reissued)****Reissuance of the Delinquency Management and Default Prevention Announcement****Introduction**

**This Announcement, a reissuance of Announcement SVC-2011-08 which was originally issued on June 6, 2011, provides additional policy clarification and supersedes Announcement SVC-2011-08 in its entirety. Policy clarifications and new instructions that are incorporated into this Announcement are identified by bold type. (Other minor editorial changes are included in this document but not identified in bold.)**

Fannie Mae is announcing new servicer requirements to streamline and simplify servicing processes, help servicers to contact delinquent borrowers more effectively, determine eligibility and offer foreclosure prevention alternatives to struggling homeowners. These new requirements begin implementing the consistent mortgage loan servicing and delinquency management requirements described in Federal Housing Finance Agency's April 28, 2011 directive to Fannie Mae and Freddie Mac, as well as other related delinquency management policy changes.

Fannie Mae is enhancing its delinquency management and default prevention requirements, as described in the *Servicing Guide*, Part VII: Delinquency Management and Default Prevention, Part VIII, Chapter 1: Foreclosures, and Part III, Chapter 3: Property Inspections, to increase the transparency and accountability of both the servicer and the borrower(s) in the foreclosure prevention process. The policy changes outlined in this Announcement promote early delinquency intervention, increase the number of attempts the servicer must make to contact the borrower during the various stages of delinquency, and introduce a Quality Right Party Contact (QRPC) standard. In addition, Fannie Mae is updating its guidelines for Fannie Mae modifications.

With this Announcement, Fannie Mae is also enhancing its borrower inquiry requirements, as described in the *Servicing Guide*, Part I, Section 312: Borrower Inquiries, to institute processes and procedures for handling escalated cases as a result of a borrower inquiry. These processes and procedures include a specific timeline in which servicers must resolve escalated cases, as well as the obligation to provide status reporting and additional information to the entities that refer the cases to servicers.

Servicers must follow the policies and procedures outlined herein for delinquency management and default prevention for all conventional mortgage loans held in Fannie Mae's portfolio, mortgage loans sold to Fannie Mae for cash and subsequently securitized into MBS pools

(known as Pooled from Portfolio or PFP mortgage loans), and mortgage loans that are part of an MBS pool that have either a special or regular servicing option or a shared-risk MBS pool for which Fannie Mae or the servicer markets the acquired property. Fannie Mae is not responsible for any losses or expenses the servicer incurs when applying the requirements in this Announcement to mortgage loans that are regular servicing option mortgage loans or mortgage loans in a shared-risk MBS pool for which the servicer markets the acquired property. In addition, Fannie Mae will not pay servicer incentive fees for collecting Borrower Response Packages or in connection with foreclosure prevention alternatives on such mortgage loans.

The guidelines addressed in this Announcement are subject to all applicable debt collection laws, including the Fair Debt Collection Practices Act, the provisions of the United States Bankruptcy Code, and any applicable state laws. All communications with borrowers must comply with the requirements of applicable laws.

All requirements provided in this Announcement apply equally to Fannie Mae HAMP and Fannie Mae non-HAMP borrower outreach, solicitations, and documentation unless otherwise explicitly stated.

The servicer must document all activity as indicated in this Announcement in the mortgage loan servicing file.

The word “day” without the modifier “business” refers to a calendar day, as noted in the definition of “business day” provided in Part XII: Glossary of the *Servicing Guide*.

This Announcement covers the following topics:

- Borrower Delinquency Management Model
- Quality Right Party Contact
- Property Inspections
- Call Center Benchmarks
- Outbound Call Attempts
- Letters and Notices
- Incentives and Compensatory Fees for Borrower Response Packages
- Evaluating a Borrower
- Pre-Referral to Foreclosure Review
- Referral to Foreclosure Attorney (or Trustee)
- Foreclosure Proceedings
- Updates to Fannie Mae Modification Requirements
- Modification Incentive Fees
- Borrower Inquiries and Escalated Cases
- Mortgage Loans Secured by Properties in Florida Subject to Pre-filing Mediation
- Additional Information

## Effective Date

Servicers are encouraged to implement these new policies and procedures immediately for all newly delinquent mortgage loans, **and with respect to the loan modification requirements, those loans determined to be in imminent default.** Unless otherwise indicated, servicers are required to implement the revised requirements in this Announcement no later than **October 1, 2011 (the Effective Date)**, for all mortgage loans that

become delinquent on or after **October 1, 2011 or, with respect to the loan modification requirements, determined to be in imminent default on or after October 1, 2011.**

If the servicer implements the revised requirements earlier than the Effective Date, all loans that become delinquent on or after the servicer's implementation date will be subject to the new requirements.

## **Borrower Delinquency Management Model**

Fannie Mae encourages servicers to develop a borrower delinquency management model that 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 foreclosure prevention alternatives available to the borrower. If the servicer develops such a borrower delinquency management model, the individual or dedicated team of individuals should also be able to handle and resolve borrower issues throughout the delinquency management process and provide updates on the status of any request for a foreclosure prevention alternative and the status of pending foreclosure proceedings. The goal of the model is to ensure servicers present all foreclosure prevention alternatives and more effectively move the borrower through the default prevention process to resolution.

Should a servicer develop a delinquency management model as described above for mortgage loans serviced for itself or any other investor, Fannie Mae expects that the servicer will apply those requirements to the mortgage loans that it is servicing for Fannie Mae.

## **Quality Right Party Contact**

Quality Right Party Contact (QRPC) is a uniform standard for communicating with the borrower, co-borrower, or a trusted advisor (collectively referred to as "borrower") about resolution of the mortgage loan delinquency. When the servicer is in discussions with the borrower, the servicer must make every attempt to achieve QRPC by:

- establishing a rapport with the borrower, expressing empathy and communicating a desire to help;
- determining the reason for delinquency and whether such reason is temporary or permanent in nature;
- determining whether the borrower has vacated or plans to vacate the property;
- determining the borrower's current perception of their financial circumstances and ability to repay the mortgage loan debt;
- setting payment expectations and educating the borrower on the availability of foreclosure prevention alternatives as appropriate; and
- obtaining a commitment from the borrower to either resolve the delinquency through traditional methods (paying the total delinquency amount) or engaging in a foreclosure prevention alternative.

Acceptable communication methods for achieving QRPC include telephone, mail, e-mail, servicer Web portal, and face-to-face discussions. All contact attempts must be documented in the mortgage loan servicing file. The servicer must be able to provide documented evidence that it satisfied the QRPC standards to Fannie Mae upon request.

Fannie Mae is implementing a new QRPC benchmark as a performance measurement. To achieve the QRPC benchmark, the servicer must obtain QRPC on at least 60% of mortgage loans that have reached day 120 of delinquency. At this time, Fannie Mae is not requiring all servicers to meet the QRPC benchmark, but reserves the right to do so in the future. Fannie Mae will contact the affected servicers required to achieve the QRPC benchmark.

## **Property Inspections**

### ***Servicing Guide, Part III, Chapter 3: Property Inspections***

If QRPC has not been achieved or a full payment has not been received within the last 30 days, the servicer must order the first property inspection no later than the 45<sup>th</sup> day of delinquency and complete the property inspection no later than the 60<sup>th</sup> day of delinquency. Unless the servicer achieves QRPC, the servicer must continue to obtain property inspections every 30 days as long as the mortgage loan remains 45 days or more delinquent.

The servicer must also ensure compliance with the mortgage insurer and applicable local and state law requirements regarding property inspections.

Additionally, if the property is vacant or tenant-occupied, the servicer must perform property inspections every 30 days without regard to whether QRPC has been established or a foreclosure prevention alternative has been approved as long as the mortgage loan remains 45 or more days delinquent.

With regard to abandoned properties, the servicer must perform an interior inspection upon confirmation of abandonment and another interior inspection within 30 days of a scheduled foreclosure sale date. Interior inspections may be conducted simultaneously with other required property inspections.

The servicer must obtain a signed copy of the inspection report that first reported the vacancy, in which the person who actually performed the inspection certifies that he or she has personally gone to the property location and certified that the property is vacant. Upon request by Fannie Mae, the servicer must make available for review any checklists or other documentation relied upon to determine that properties are vacant. Fannie Mae reserves the right to require revisions to the checklists or to require the use of a prescribed form or checklist. Fannie Mae also reserves the right to require affidavits of vacancy where necessary or appropriate to evidence the vacancy status.

A signed inspection report indicating vacancy is required the first time a property is inspected and found to be vacant. If a property is subsequently inspected and remains vacant, the continued vacancy status should be noted on the checklist or other document evidencing notes of the inspection, but no additional signature is required. Should a property previously reported to be vacant become occupied, a new signed inspection report is required if the property again becomes vacant.

There will also be instances in which the servicer needs to schedule its subsequent property inspections more frequently. For example, if the servicer is aware of a local ordinance related to vacant or abandoned properties that imposes a duty to maintain the property during any part of the foreclosure process or that could significantly increase costs or Fannie Mae's risk of loss (for example, by providing for the imposition of daily fines), it must inspect the property more

frequently. Furthermore, if a vacant or abandoned property is located in an area that has severe weather conditions during the winter months, the servicer should consider the need to inspect the property more frequently to confirm the effectiveness of any previous efforts to protect the property and to determine whether there is a need to take additional action to protect the property.

If the servicer believes that the value of a property may be in jeopardy, it should inspect the property immediately.

A property inspection is not required for mortgage loans in which the borrower has filed bankruptcy, provided that the borrower is performing under the applicable bankruptcy plan.

When foreclosure proceedings are initiated or the decision is made to accept a deed-in-lieu of foreclosure, the servicer must schedule its property inspections to ensure that the comprehensive property inspection is completed 30 days prior to the date of the foreclosure sale (or the anticipated date that a deed-in-lieu of foreclosure will be sent for recordation). (The comprehensive property inspection is discussed in Part III, Section 304: Preforeclosure Inspections, of the *Servicing Guide*.)

## **Call Center Benchmarks**

### ***Servicing Guide*, Part VII, Section 201: Inbound Call Coverage**

Fannie Mae is enhancing its *Servicing Guide* to include call center benchmarks for inbound calls and electronic messaging from borrowers. For servicers with call center operations, Fannie Mae is requiring the servicer to establish comprehensive processes and written procedures for maintaining contact method standards and service levels. These processes and procedures must include the following:

- The average speed to answer an inbound call must be 60 seconds or less.
- The monthly blockage rate must be less than or equal to 1%. (See the definition of blockage rate below.)
- The call abandonment rate must be less than or equal to 5%. (See the definition of call abandonment rate below.)
- For live chats, (that is, electronic question and answer sessions) responses must be initiated in less than or equal to 5 minutes from a chat inquiry.
- E-mails from borrowers must be responded to within 48 hours of receipt on average.

#### **Blockage Rate**

Blockage rate is defined as the percentage of calls that did not connect internally due to circuit unavailability or a programmatic blockage of calls by the automated call distribution system.

Blockage rate is calculated based on the number of calls blocked divided by total calls offered plus the number of calls blocked.

$$\# \text{ of calls blocked} / (\text{total calls offered} + \# \text{ of calls blocked})$$

#### **Call Abandonment Rate**

Call abandonment rate is defined as the percentage of calls that are not intercepted by a live operator before the prospect/customer disconnects (pure data with no exclusions for servicer thresholds, service levels, or calls blocking).

Call abandonment rate is calculated based on the number of calls not answered divided by the number of inbound calls.

# of calls not answered / # of inbound calls

## **Outbound Call Attempts**

### ***Servicing Guide, Part VII, Chapter 202: Outbound Call Attempts***

As a reminder, phone calls are the principal form of contact with a delinquent borrower. When the servicer is in discussion with the borrower, the servicer must make every attempt to achieve QRPC, as described in the QRPC section of this Announcement.

Effective with this Announcement, Fannie Mae is updating the *Servicing Guide, Part VII, Chapter 202: Outbound Call Attempts*, on when to initiate outbound calls. These requirements are listed below and will be available on [eFannieMae.com](http://eFannieMae.com) in the *Outbound Call Attempts Guidelines*.

The servicer must have a policy in place for collection call campaigns. The servicer may use either a methodology for reviewing borrower payment patterns or a behavioral modeling tool to establish its collections calendar. (See below for further details on the methodologies available.)

- Collection Calls – Day 3 to 36 of delinquency:
  - Call attempts should begin once a mortgage loan becomes 3 days delinquent and is determined to be high risk based on the servicer’s methodology (for example, mortgage loans involving a prior delinquency or borrowers with lower credit scores) or is indicated as high risk based upon a behavioral modeling tool (see Behavioral Model Tool below). If the borrower is set up on a monthly automatic withdrawal for the mortgage payment, the servicer is not required to begin calling the borrower until day 16 of delinquency for mortgage loans determined to be high risk.
  - Call attempts must begin on day 16 of delinquency for mortgage loans not determined to be high risk, or indicated as anything other than high risk based upon a behavioral modeling tool (see Behavioral Model Tool below).
  - All calls between days 3 to 36 of delinquency must continue at least every 3 days until one of the following outcomes is attained:
    - QRPC is achieved and the borrower meets the commitment agreed to with the servicer (e.g., documentation or promised payments are received),
    - the delinquency is resolved,
    - the borrower enters into a forbearance or repayment plan,
    - a complete Borrower Response Package (defined below) is received, or
    - QRPC was established and the borrower is not interested in a foreclosure prevention alternative.

- Borrower Solicitation Package Follow-up Calls:
  - Follow-up calls to the borrower must begin no later than the next day after the servicer sends the Borrower Solicitation Package. The first call after the package is sent is to inform the borrower that the Borrower Solicitation Package has been sent.
    - Follow up calls must continue at least every 3 days until one of the following outcomes is attained:
    - QRPC is achieved and borrower meets the commitment agreed to with the servicer (e.g., documentation or promised payments are received),
    - the delinquency is resolved,
    - the borrower enters into a forbearance or repayment plan,
    - a complete Borrower Response Package is received, or
    - QRPC was established and the borrower is not interested in a foreclosure prevention alternative.
  
- Collection Calls During the Foreclosure Proceedings:
  - Attempts to contact delinquent borrowers must continue throughout the foreclosure process and up to 60 days prior to the judicial foreclosure sale date, or 30 days prior to a non-judicial foreclosure sale date.
  - These calls must occur at least every 3 days until one of the following outcomes is attained:
    - QRPC is achieved and borrower meets the commitment agreed to with the servicer (e.g., documentation or promised payments are received),
    - the delinquency is resolved,
    - the borrower enters into a forbearance or repayment plan,
    - a complete Borrower Response Package is received, or
    - QRPC was established and the borrower is not interested in a foreclosure prevention alternative.
  
- **Follow-up Calls for Evaluation Notices Offering the Borrower a Foreclosure Prevention Alternative:**
  - **If the borrower has not communicated either acceptance or declination of the offer by the third day from the date of the Evaluation Notice, then the servicer must make a follow-up call at least every three days until the borrower:**
    - **acknowledges acceptance,**
    - **enters into a repayment plan, forbearance agreement, or trial period plan,**
    - **submits required documentation to pursue a preforeclosure sale or deed-in-lieu option, or**
    - **indicates that he or she is no longer interested in pursuing an alternative to foreclosure.**

The servicer must vary the days of the week and times of the day for making calls, including some evenings and weekend calls, to an individual borrower to effectuate adequate outreach. The servicer must adjust their collection call calendar accordingly to ensure compliance with the

requirements in this Announcement. Unmanned automated message calls do not constitute an attempt to contact a borrower.

**Note:** These requirements supersede the *Servicing Guide*, Part VII, Chapter 2: Collection Procedures. The *Outbound Call Attempts Guidelines* will be posted on [eFannieMae.com](http://eFannieMae.com).

## **Behavioral Model Tool**

The servicer may choose to use a model to predict the likelihood of default or foreclosure and to use the results of the model (such as mortgage loans considered to be high risk) to target its collections and default management practices, **including when to begin calling campaigns and whether and when to send the first *Borrower Solicitation Letter – 31 Days Delinquent (Form 731)*. Servicers using a Behavioral Model Tool may not alter the timing of the second *Borrower Solicitation Letter – 61 Days Delinquent (Form 761)* or the *Post Referral to Foreclosure Solicitation Letter*.**

**Servicers using a Behavioral Model Tool to prioritize when to begin calling campaigns and whether to mail the *Borrower Solicitation Letter – 31 Days Delinquent (Form 731)* must make details of the model available to Fannie Mae upon request, as well as any analysis demonstrating its predictions of the likelihood of a default or foreclosure. The servicer must have written policies and procedures to manage mortgage loans considered high risk by the model and that address the utilization of the model (in, for example, setting up calling campaigns and letter-mailing strategies).**

The servicer must conduct periodic model reviews to ensure the effectiveness of the behavior model tool. Fannie Mae reserves the right to require a servicer to discontinue the use of a behavior model for Fannie Mae loans or to require a servicer to implement additional measures for targeting its collections and default management practices.

**In situations where a servicer does not use a Behavior Model Tool, the servicer's collections and default management practices must meet or exceed the minimum standards as outlined in this Announcement and the applicable sections of the *Servicing Guide*.**

## **Letters and Notices**

***Servicing Guide*, Part VII, Section 203: Letters, Section 601: Determining a Borrower's Eligibility for Foreclosure Prevention Alternatives, Section 601.01: Requesting Preliminary Financial Information, Section 609.02 HAMP Documents, and Section 609.03.02: Government Monitoring Data.**

Fannie Mae requires servicers to use written communication as another form of contact with a delinquent borrower in order to obtain payment on a delinquent account and to solicit for foreclosure prevention alternatives.

Fannie Mae is updating and adding new requirements related to the timing and types of letters, notices, and supporting documents (i.e., hardship and income), that must be sent to the borrower. This section of the Announcement will provide updated requirements for the following:

- Borrower Solicitation Letters
- Post Referral to Foreclosure Solicitation Letter
- Borrower Solicitation Package
- Borrower Response Package
- Acknowledgment of Borrower Response Package
- Incomplete Information Notices
- Evaluation Notices
- Acceptance of Offer
- Breach and Acceleration Letters

The *Letters and Notices Guidelines* will be available on [eFannieMae.com](http://eFannieMae.com).

## **Borrower Solicitation Letters**

Fannie Mae is changing the time frame within which the servicer must send foreclosure prevention solicitation letters (Borrower Solicitation Letters) and revising the content of the letters. With this Announcement, the Borrower Solicitation Letters must be sent at least once before referral to foreclosure and once post referral to foreclosure. Depending on the borrower response, another Borrower Solicitation Letter may be required prior to referral to foreclosure. If a servicer has achieved QRPC and has obtained from the borrower a promise to pay the delinquent amount by a specific date (not to exceed 30 days), the servicer is not required to send out a Borrower Solicitation Letter. **If the borrower does not honor that promise, then the servicer must resume solicitation efforts. In addition, the servicer may choose not to send the first *Borrower Solicitation Letter – 31 Days Delinquent (Form 731)* based on the results of a Behavioral Model Tool (e.g., if the results of the model indicate that the mortgage is a low risk for default).**

The Borrower Solicitation Letters must be sent **using the following schedule unless the servicer chooses not to send the first *Borrower Solicitation Letter – 31 Days Delinquent (Form 731)* based on the results of a Behavioral Model Tool.**

- Between Days 31 to 35 of delinquency: The first *Borrower Solicitation Letter – 31 Days Delinquent (Form 731)*, must be sent to the borrower between days 31 to 35 of delinquency. **As noted above, the servicer may choose not to send this letter pursuant to the use of a Behavioral Model Tool.**
- Between Days 61 to 65 of delinquency: **If the borrower does not respond to the first *Borrower Solicitation Letter (or an alternative solicitation based on a Behavioral Model Tool)* or the servicer has been unable to achieve QRPC, the servicer must send the second *Borrower Solicitation Letter – 61 Days Delinquent (Form 761)*, between days 61 to 65 of delinquency.**
- Within 5 business days of referral to foreclosure: The [Post Referral to Foreclosure Solicitation Letter](#) must be sent to the borrower by the foreclosure attorney (or trustee) conducting the foreclosure proceedings.

**Note:** If a servicer determines that a borrower that was less than 60 day delinquent did not qualify for any alternative to foreclosure and such borrower subsequently becomes 60 or more days delinquent, then the servicer must continue its solicitation and collection efforts with such borrower in accordance with these requirements.

**Should a servicer choose not to send the first *Borrower Solicitation Letter – 31 Days Delinquent* (Form 731), the servicer is expected to make an alternative solicitation and must still send the *Borrower Solicitation Letter – 61 Days Delinquent* (Form 761). In addition, the servicer still remains responsible for the foreclosure referral requirements and timing as outlined in the *Pre-Referral to Foreclosure Review* and *Referral to Foreclosure Attorney* (or *Trustee*) sections below.**

The new solicitation templates, *Borrower Solicitation Letter – 31 Days Delinquent* (Form 731) and *Borrower Solicitation Letter – 61 Days Delinquent* (Form 761) represent the information that must be sent to the borrower who is between days 31 to 35 of delinquency and days 61 to 65 of delinquency, respectively, to provide information on all foreclosure prevention alternatives. Both forms are posted on [eFannieMae.com](http://eFannieMae.com).

The servicer may customize its solicitation letter, as long as the letter includes all the elements of the *Borrower Solicitation Letters* (Forms 731 and 761). The servicer may amend the written communication to address situations where a court, with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the activity, could fail or refuse to halt the sale. Fannie Mae's approval of the servicer's *Borrower Solicitation Letters* is not required; however, the servicer must make the letter available to Fannie Mae upon request or through on-site reviews to facilitate Fannie Mae's review of the letters for compliance.

### **Post Referral to Foreclosure Solicitation Letter**

Within five business days after referral to foreclosure, the attorney (or trustee) conducting foreclosure proceedings must send a written communication to the borrower that includes clear language that:

- the servicer may have sent to the borrower one or more Borrower Solicitation Packages;
- the borrower can still be evaluated for alternatives to foreclosure even if he or she had previously shown no interest;
- the borrower should contact the servicer to obtain a Borrower Solicitation Package;
- the borrower must submit a Borrower Response Package to the servicer to request consideration for available foreclosure prevention alternatives; and
- provides the servicer's contact information for submitting a complete Borrower Response Package, including the servicer's toll-free number.

A sample letter is available on [eFannieMae.com](http://eFannieMae.com). The attorney (or trustee) may amend the *Post Referral to Foreclosure Solicitation Letter* to address situations where a court with jurisdiction over the foreclosure proceeding (if any) or public official charged with carrying out the activity could fail or refuse to halt the foreclosure sale. Additionally, the attorney (or trustee) may include the contents of the Borrower Solicitation Package (see section below) with the *Post Referral to Foreclosure Solicitation Letter*, along with other notices and disclosures, when appropriate.

The *Post Referral to Foreclosure Solicitation Letter* may be sent at a later date, if necessary to comply with applicable law.

Fannie Mae's approval of either the servicer's or the attorney's (or trustee's) *Post Referral to Foreclosure Solicitation Letter* is not required; however, the servicer must make the letter

available to Fannie Mae upon request or through on-site reviews to facilitate Fannie Mae's review of the letters for compliance.

## **Borrower Solicitation Package**

Fannie Mae has developed a standardized foreclosure prevention solicitation package (Borrower Solicitation Package). The Borrower Solicitation Package provides the borrower with information on all foreclosure prevention alternatives and the required documentation that must be submitted to the servicer in order to be evaluated for a foreclosure prevention alternative. The contents of the Borrower Solicitation Package must include the following documents:

- Borrower Solicitation Letters
  - *Borrower Solicitation Letter – 31 Days Delinquent* (Form 731): the first foreclosure prevention solicitation (sent between days 31 to 35 of delinquency); or
  - *Borrower Solicitation Letter – 61 Days Delinquent* (Form 761): the second foreclosure prevention solicitation, if applicable (sent between days 61 to 65 of delinquency); or
  - *Post Referral to Foreclosure Solicitation Letter*: the solicitation letter (sent by the foreclosure attorney) to the borrower within 5 business days after referral.
  
- *Uniform Borrower Assistance Form* ([Form 710](#))
  - The borrower is required to complete Form 710 in its entirety. This form provides the servicer with the borrower's financial and hardship information and provides the borrower with a list of required documentation to be considered for an alternative to foreclosure.
  - Form 710 replaces the Treasury's *HAMP Request for Modification and Affidavit* (RMA), and the Fannie Mae *Borrower's Financial Form* (Form 1020), for Fannie Mae loans.
  - Form 710 also replaces the *Fannie Mae Hardship Affidavit* (Form 194), and the *HAMP Hardship Affidavit* (Form 1021) for Fannie Mae loans.
  - Servicers may use a customized equivalent of the *Uniform Borrower Assistance Form* provided that its customized form requests the same financial information, hardship affidavit, and attestations from the borrower.
  
- *HAMP Government Monitoring Data Form* ([Form 710A](#))
  - As required in Part VII, Section 609.03.02: Government Monitoring Data, servicers must request Government Monitoring Data for HAMP-eligible borrowers. Accordingly, servicers must provide the *HAMP Government Monitoring Data Form* (Form 710A) with the Borrower Solicitation Package for HAMP-eligible borrowers. The servicer must not provide the Form 710A unless the borrower is Fannie Mae HAMP-eligible.
  
- Internal Revenue Service ***Short Form Request for Individual Tax Return Transcript*** (Form 4506T-EZ)
  - **The servicer must obtain a signed IRS Form 4506T-EZ from the borrower(s) provided:**
    - **the borrower is not self-employed; or**
    - **the borrower does not file IRS Form 1040 based on a fiscal tax year (that is, a tax year beginning in one calendar year and ending in the following year).**
  - **The servicer must accept the IRS Form 4506-T if the borrower submits the form as part of the Borrower Response Package.**

- If the borrower is either self-employed or files the IRS Form 1040 based on a fiscal tax year (other than a calendar year), the servicer must obtain an executed IRS Form 4506-T. If the borrower informs the servicer that he or she is self-employed or files IRS Form 1040 on a fiscal tax year prior to receiving the Borrower Solicitation Package, the servicer may send the IRS Form 4506-T instead of the IRS Form 4506T-EZ.

## Borrower Response Package

The Borrower Response Package is the required documentation from the borrower in response to the foreclosure prevention solicitation. A complete Borrower Response Package must include:

- a completed *Uniform Borrower Assistance Form* (Form 710);
- income documentation as outlined in the *Uniform Borrower Assistance Form* based on income type. (Unless a borrower [or co-borrower] is deceased or divorced, all parties whose income was used to qualify for the original mortgage loan and who signed the note must submit income documentation.);

The servicer may include non-borrower household income in the monthly gross income if:

- it is voluntarily provided by the borrower;
- the non-borrower is a relative, spouse, domestic partner, or fiance/fiancee;
- the servicer verifies that the non-borrower occupies the subject property as a primary residence based on a review of the credit report or any other available document; and
- there is documentary evidence to support that the income has been, and reasonably can continue to be, relied upon to support the mortgage loan payment.

The income of a non-borrower as defined above, who contributes to the mortgage loan payment and is included in the monthly gross income, must be documented and verified by the servicer using the same standards used in verifying a borrower's income. The servicer should not consider expenses of non-borrower household members, but may only consider the percentage of his or her income that the non-borrower routinely contributes to the household.

- hardship documentation as outlined in the *Uniform Borrower Assistance Form* based on hardship type; and
- an IRS Form 4506T-EZ or IRS Form 4506-T signed by the borrower.

The *Income Documentation Requirements for Foreclosure Prevention Alternatives* and *Hardship Documentation Requirements for Foreclosure Prevention Alternatives* are available on [eFannieMae.com](http://eFannieMae.com).

The servicer must verify the income for all borrowers who signed the mortgage note when evaluating the borrower for a foreclosure prevention alternative or relief options. The borrower's income must be supported by documentation that is not more than 90 days old as of the date the servicer first determines that the borrower submitted a complete Borrower Response Package. Income documentation obtained during a previous foreclosure prevention alternative evaluation, if applicable, may be relied upon for the purposes of verifying income provided that

the documentation is not more than 90 days old at the time of the subsequent evaluation for a Fannie Mae foreclosure prevention alternative.

Fannie Mae encourages servicers to develop processes that will enable secure, electronic submission of documentation between the borrower and the servicer. All Borrower Response Package documents may be submitted to the servicer via electronic communication except for the IRS Form 4506-T or IRS Form 4506T-EZ, which the borrower must print, sign, and mail to the servicer.

### **Acknowledgment of Borrower Response Package**

The servicer must acknowledge to the borrower either verbally or in writing, receipt of a Borrower Response Package within three business days of receipt. The acknowledgment must include the following:

- the servicer's evaluation process and response time frame;
- an explanation of the foreclosure process, including that the foreclosure process may continue during the evaluation and that foreclosure referral will not occur if the servicer is reviewing a completed Borrower Response Package or has extended an offer and the borrower's response time for acceptance has not expired;
- for borrowers who submit a Borrower Response Package less than 37 days prior to a scheduled foreclosure sale, an explanation of the servicer's plans for evaluating the borrower for a foreclosure prevention alternative and suspending the foreclosure sale, if appropriate; and
- appropriate disclosures required by applicable federal, state or local law.

Additionally, the servicer may include a description of those instances in which a court with jurisdiction over the foreclosure proceedings or a public official could fail or refuse to halt the foreclosure sale.

If the Borrower Response Package is received by e-mail, the servicer may provide an acknowledgment to the same e-mail address from which the Borrower Response Package was received or to another e-mail address that is designated by the borrower.

The servicer must maintain evidence of the date of receipt of the Borrower Response Package, along with a copy of the acknowledgement letter or notation that an acknowledgement telephone call was made in the mortgage loan servicing file.

### **Incomplete Information Notices**

Upon receipt of documentation from the borrower, the servicer must review the documentation to determine if a Borrower Response Package is complete. If the servicer determines that documentation is missing, the servicer must send an Incomplete Information Notice to the borrower no later than five business days from receipt of documentation from the borrower.

The Incomplete Information Notice must include:

- a list of missing documents or information needed to begin an evaluation of the borrower for a foreclosure prevention alternative;
- a toll-free number for the borrower to contact the servicer if the borrower has any questions;

- a reference to the HUD Web site for HUD-approved counselors as a resource available to help the borrower complete the package;
- a reminder that failure to submit all the required documentation or information may result in ineligibility for a foreclosure prevention alternative and the foreclosure proceedings will continue, including referral to foreclosure if the mortgage loan was not previously referred; and
- a statement that depending on the timing of when the necessary information or documentation is received, there is no guarantee of an evaluation for a foreclosure prevention alternative and suspension of foreclosure proceedings.

The servicer may, but is not required to, send an Incomplete Information Notice to a borrower who submits incomplete documentation less than 37 days prior to a scheduled foreclosure sale. Servicers are strongly encouraged to work with borrowers who submit incomplete documentation less than 37 days prior to a scheduled foreclosure sale to obtain a complete Borrower Response Package and expedite a decision.

The borrower's submission of a *Uniform Borrower Assistance Form* that is partially completed or that is not accompanied by all required income and hardship documentation or an executed IRS Form 4506T-**EZ** or 4506-T is not considered a complete Borrower Response Package.

Servicers must continue to attempt to obtain the missing documentation through solicitation follow-up calls until 60 days prior to foreclosure sale for mortgage loans secured by properties located in judicial states and 30 days prior to foreclosure sale for mortgage loans secured by properties located in non-judicial states.

## Evaluation Notices

When the servicer has completed its evaluation of a borrower for any foreclosure prevention alternatives, including Fannie Mae HAMP and Fannie Mae's Home Affordable Foreclosure Alternatives Program (HAFA, described in the *Servicing Guide*, Part VII, Section 610) programs, the servicer must send an Evaluation Notice to the borrower. A Notice of Non-Approval is no longer required for Fannie Mae HAMP and Fannie Mae HAFA evaluations.

The Evaluation Notice must:

- be provided within five days of a decision related to a foreclosure prevention alternative, but in no event more than 30 days after receipt of a complete Borrower Response Package;
- identify the decision for a foreclosure prevention alternative that is being offered to the borrower, and if accepted, the steps the borrower must take to participate in or to accept the offer; and
- provide a 14-day time frame for the borrower's acceptance or non-acceptance of the foreclosure prevention alternative, if applicable.

The content of the Evaluation Notice will vary depending on the determination made by the servicer. All notices must be written in clear, concise language.

The Evaluation Notice must provide the borrower with one of the following possible outcomes:

- Non-approval; capacity to pay your mortgage loan
- Offer a reinstatement

- Offer a repayment plan
- Offer a forbearance plan, with opportunity for a subsequent evaluation
- Offer a Fannie Mae HAMP Trial Period Plan
- Offer a Fannie Mae non-HAMP Trial Period Plan
- Offer Fannie Mae HAFA preforeclosure sale
- Offer Fannie Mae non-HAFA preforeclosure sale
- Offer Fannie Mae HAFA deed-in-lieu
- Offer Fannie Mae non-HAFA deed-in-lieu
- Non-approval; foreclosure process will continue

The servicer must include a contact name or the name of the servicer's escalated case unit designated to respond, and a toll-free escalation contact phone number in the following Evaluation Notice decisions: pay your mortgage loan, HAFA preforeclosure sale, non-HAFA preforeclosure sale, HAFA deed-in-lieu, non-HAFA deed-in-lieu, and non-approval.

*Evaluation Model Clauses* are available on [eFannieMae.com](http://eFannieMae.com). 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* and this Announcement. The servicer that elects to use the model clauses must revise its letter as necessary to comply with applicable law.

### **Acceptance of Offer**

An acceptance of a foreclosure prevention alternative may be in the form of verbal or written communication, or receipt of a payment (if applicable). The allowable types of borrower acceptances are described in the Referral to Foreclosure Attorney and Foreclosure Proceedings sections of this Announcement. The type of acceptance may vary based on the status of the foreclosure action of the mortgage loan. The nature of the acceptance and terms must be clearly documented in the servicer files in an accessible manner and made available to Fannie Mae upon request.

### **Breach or Acceleration Letters**

For all mortgage loans that become delinquent on or after the date of the servicer's implementation of the requirements in this Announcement, but no later than the Effective Date, the servicer must issue the breach letter no later than day 60 of delinquency (or such earlier date as required by applicable state law) in order to refer the mortgage loan to foreclosure within the required time frame.

For a vacant or abandoned property securing a mortgage loan that is more than 30 days delinquent, the servicer must issue the breach or acceleration letter within 10 days from the determination of vacancy and no later than day 60 of delinquency. Unless the servicer is able to contact the delinquent borrower and is discussing some type of foreclosure prevention alternative, the servicer must refer the mortgage loan to foreclosure upon expiration of the breach letter. The mortgage loan must, in any case, be referred to foreclosure, no later than day 120 of delinquency as required for properties that are not abandoned or vacant.

**Note:** These requirements supersede Part VII, Chapter 2: Collection Procedures. An updated *Letters and Notices Guidelines* will be posted to [eFannieMae.com](http://eFannieMae.com).

## **Incentives and Compensatory Fees for Borrower Response Packages**

Fannie Mae is introducing new incentives and compensatory fees for Borrower Response Packages on mortgage loans that are newly 60 days delinquent as of the Effective Date of this Announcement. Fannie Mae will identify servicers for inclusion in the new incentive program and will:

- track those borrowers from whom the servicer collects a complete Borrower Response Package within six months of the date the mortgage loan became 60 days delinquent; and
- establish a **minimum incentive benchmark** and a **minimum performance benchmark** for the number of complete Borrower Response Packages collected.

If the servicer **exceeds the minimum incentive benchmark** at the end of the 6-month period, Fannie Mae will pay the servicer a \$500 incentive fee for each complete Borrower Response Package collected.

If a servicer **does not meet the minimum performance benchmark** at the end of the 6-month period, the servicer will be assessed a compensatory fee of \$500 for each mortgage loan that represents the difference between the number of Borrower Response Packages collected and the number of Borrower Response Packages the servicer was required to collect to achieve the minimum performance benchmark.

Participating servicers will not receive an incentive fee or be assessed a compensatory fee if the percentage of Borrower Response Packages collected for mortgage loans greater than 60 days delinquent falls between the minimum performance and incentive benchmarks. Fannie Mae may offset or net any compensatory fees assessed to the servicer from any foreclosure prevention alternative incentive payments of any type due to the servicer.

## **Evaluating a Borrower**

### ***Servicing Guide, Part VII, Section 401: Fannie Mae's Workout Hierarchy and Part VIII, Section 105.02: Communication Regarding Workout Agreements***

The servicer must evaluate a borrower for all foreclosure prevention alternatives when the servicer receives a complete Borrower Response Package from the borrower.

The servicer must review and evaluate the Borrower Response Package and communicate a decision within five days after making the decision, but no later than 30 days following receipt of a Borrower Response Package. When the servicer has completed its evaluation and has made a decision, the servicer must follow the requirements indicated in the Evaluation Notice section above.

During the evaluation process, the servicer must follow the Fannie Mae Workout Hierarchy, as indicated in the *Servicing Guide*, Part VII, Section 401, and amended in subsequent Announcements.

The servicer should refer to the Postponement of Foreclosure Proceedings section below for evaluation requirements during foreclosure proceedings.

## **Pre-Referral to Foreclosure Review**

### ***Servicing Guide, Part VIII, Section 104: Referral to Foreclosure Attorney/Trustee and Section 105: Conduct of Foreclosure Proceedings***

The servicer must perform a pre-referral to foreclosure review of the mortgage loan at least seven days prior to the date the servicer is required to refer the mortgage loan to foreclosure. Before the review, the breach letter must have expired, and the Borrower Solicitation Package deadline must also have expired without affirmative response from the borrower.

The pre-referral foreclosure review must ensure that all procedures relating to establishing QRPC were followed in accordance with the requirements in this Announcement, and one of the following:

- an approved payment arrangement is not pending, or
- a complete or substantially complete Borrower Response Package has not been received or if received, either the borrower is not eligible for a foreclosure prevention alternative or the servicer has made an offer for a foreclosure prevention alternative and the borrower has not accepted within the required response time frame.

Additional requirements regarding the receipt of a Borrower Response Package prior to foreclosure referral are set forth in the section below.

Once the servicer makes the determination as required by the pre-referral review, the mortgage loan must be referred to a foreclosure attorney (or trustee). Servicers should be able to refer a mortgage loan to foreclosure no later than day 120 of delinquency except in circumstances where borrowers submit Borrower Response Packages shortly before the foreclosure referral.

Servicers must regularly review and assess the adequacy of internal controls and procedures in connection with pre-referral review activities to ensure compliance with these requirements and applicable law. Servicers must take remedial steps as appropriate if any deficiencies are identified as a result of their review of internal controls or processes or issues are identified from a review of pre-referral activities. The servicer should formally document the results of such reviews and make the review results available to Fannie Mae upon request.

## **Referral to Foreclosure Attorney (or Trustee)**

### ***Servicing Guide, Part VIII, Section 102: Initiation of Foreclosure Proceedings and Section 104: Referral to Foreclosure Attorney (or Trustee)***

**Note:** Effective **October 1, 2011**, the Referral to Foreclosure Attorney (or Trustee) section of this Announcement supersedes all existing requirements relating to delaying the referral of Fannie Mae mortgage loans to foreclosure as provided in any servicer delegation or directive issued by Fannie Mae.

Foreclosure referrals for all Fannie Mae mortgage loans that become delinquent on or after **October 1, 2011** must occur by day 120 of delinquency as long as any applicable notice and waiting period under state law is met, and under the following circumstances:

- the servicer has exhausted attempts at QRPC as indicated in this Announcement, without resolution of the delinquency; or
- a complete or substantially complete Borrower Response Package is not received (as described below); or
- the borrower has been evaluated but the servicer has determined the borrower to be ineligible for a foreclosure prevention alternative; or
- the servicer has offered a foreclosure prevention alternative to the borrower but the borrower's 14-day response time has expired without the borrower having accepted the offer.

If QRPC has not been established, a complete or substantially complete Borrower Response Package has not been evaluated, or the borrower's 14-day response time has not expired, the servicer must expeditiously fulfill these requirements and refer to foreclosure upon resolution.

For vacant or abandoned properties, the servicer must refer the case to a foreclosure attorney (or trustee) to begin foreclosure proceedings upon expiration of the breach letter as previously described.

### **Postponement of Referral to Foreclosure Due to Receipt of Borrower Response Package (Complete or Substantially Complete)**

**Note:** Effective **October 1, 2011**, the Referral to Foreclosure Attorney (or Trustee) section of this Announcement supersedes all existing requirements relating to delaying the referral of Fannie Mae mortgage loans to foreclosure as provided in any servicer delegation or directive issued by Fannie Mae.

**The servicer may postpone referral of a mortgage loan to foreclosure beyond day 120 of delinquency upon receipt of a complete or "substantially complete" (as defined below) Borrower Response Package. Requirements relating to postponing the referral to foreclosure upon receipt of a Borrower Response Package are as follows:**

#### **Borrower Response Package**

- **If a substantially complete Borrower Response Package is submitted, the servicer may delay referral to a foreclosure attorney (or trustee) up to 10 days to allow the borrower to submit the missing documentation. A "substantially complete" package is a package in which the only missing documentation is the hardship documentation. All other required documentation--the *Uniform Borrower Assistance Form* (Form 710), all required income documentation, and IRS Form 4506T-EZ or 4506-T, or signed tax returns with all schedules--must have been received by the servicer by day 120 of delinquency.**
- **A Borrower Response Package must be complete before an evaluation can occur.**

#### **Evaluation (Borrower Response Package)**

- Once a complete Borrower Response Package is received, the servicer must delay referral to foreclosure to complete an evaluation. Such an evaluation must not exceed 30 days.

#### **Offer (Evaluation Notice Sent to Borrower)**

- If the servicer makes an alternative to foreclosure offer to the borrower, the servicer must delay the referral to foreclosure up to 14 days to allow the borrower to respond to the offer.

#### **Borrower Acceptance**

- The borrower may indicate acceptance of the offer:
  - verbally,
  - in writing (including e-mail responses), or
  - by remitting a payment, or in the case of a liquidation option, submitting the required documentation, if applicable.

In cases where a payment is required under the terms of an alternative to foreclosure offer and the borrower indicates acceptance either verbally or in writing, the servicer must delay the referral to foreclosure up to the last day of the month in which the first payment is due under the terms of the foreclosure alternative.

If the servicer receives the first payment timely in accordance with the terms of trial period plan, the servicer must delay the referral until the first month following the end of the trial period plan. If the servicer receives the first payment timely in accordance with the terms of a repayment plan or forbearance plan, the servicer must delay the referral until the borrower breaches the plan. Verbal or written acceptance, without payment or execution of required documents, serves only to postpone referral to foreclosure. A foreclosure prevention alternative may not be consummated without executed documents.

The servicer must not postpone foreclosure referral due to the review of a borrower inquiry or escalated case, as defined in the Borrower Inquiries and Escalated Cases section of this Announcement.

For mortgage loans participating in the Hardest Hit Funds Program, foreclosure actions are suspended for 45 days if the state Housing Finance Agency notifies the servicer that a borrower is approved for assistance.

#### **Borrower Outreach During Foreclosure Proceedings**

When a delinquent mortgage loan is referred to a foreclosure attorney (or trustee), the servicer must continue efforts to contact and work with the borrower in order to develop and finalize a foreclosure prevention alternative. The servicer must continue efforts:

- up to 60 days prior to a foreclosure sale date for mortgage loans secured by properties in judicial foreclosure states, or

- up to 30 days prior to a foreclosure sale date for mortgage loans secured by properties in non-judicial foreclosure states.

The servicer should discontinue contact efforts if:

- QRPC was established and the servicer has documented that the borrower does not want to pursue a foreclosure prevention alternative, or
- the servicer has determined that foreclosure is the appropriate action after evaluating the borrower for foreclosure prevention alternatives.

Skip trace efforts should continue until all reasonable sources have been attempted or contact numbers and addresses have been verified.

The servicer must keep the attorney (or trustee) advised about the status of relevant foreclosure prevention alternative negotiations and must notify the attorney (or trustee) within two business days after foreclosure prevention alternative arrangements with the borrower have been agreed to or within two business days after the mortgage loan is fully reinstated.

## **Foreclosure Proceedings**

### **Postponement of Foreclosure Proceedings**

***Servicing Guide, Part VIII, Section 105.01: Servicer-Initiated Temporary Suspension of Proceedings and Part VII, Section 609.04.04: Temporary Suspension of Foreclosure Proceedings***

**Note:** Effective **October 1, 2011**, the Postponement of Foreclosure Proceedings section of this Announcement supersedes all existing requirements relating to postponing foreclosure proceedings of Fannie Mae mortgage loans as provided in any servicer delegation or directive issued by Fannie Mae.

Fannie Mae is updating its requirements for postponing foreclosure proceedings as follows:

**If a mortgage loan has been referred to foreclosure prior to receipt of a complete Borrower Response Package, the servicer may delay the foreclosure process pursuant to the terms and conditions set forth below. Generally, a servicer must delay the next legal action in the foreclosure process as required by these provisions as long as these delays are permitted under state or local law. The next legal action will be the next step required by law to proceed with the foreclosure action, such as publication or service of process, as opposed to administrative actions such as title searches or document preparation.**

**The servicer should consult with its legal counsel to determine the next legal action in the foreclosure process that would occur in the applicable jurisdiction. The servicer is not in violation of these requirements to the extent that a court or public official fails or refuses to halt some or all activities in the matter after the servicer has made reasonable efforts to move the court or request the public official for a cessation of the activity or event.**

**In all scenarios described below in this section:**

- The Borrower Response Package must be complete before any legal action may be postponed.
- In cases where a payment is required under the terms of a foreclosure prevention alternative offer and the borrower indicates acceptance, the servicer must delay the next legal action in the foreclosure process up to the last day of the month in which the first payment is due under the terms of the foreclosure alternative.

If the servicer receives the first payment timely in accordance with the terms of a trial period plan, the servicer must delay the next legal action until the first month following the end of the trial period plan. If the servicer receives the first payment timely in accordance with the terms of a repayment plan or forbearance plan, the servicer must delay the next legal action until the borrower breaches the plan.

Verbal or written acceptance, without payment or execution of required documents, serves only to postpone referral to foreclosure. A foreclosure prevention alternative may not be consummated without executed documents.

- Fourteen-day delay periods may be extended in order to postpone or repeat the next legal action or postpone a foreclosure sale, if necessary under state or local law.

### **Borrower Response Package Received within 30 Days of *Post Referral to Foreclosure Solicitation Letter***

#### **Evaluation – Borrower Response Package**

- **Judicial Jurisdictions** - The servicer must delay filing a Motion for Judgment (or equivalent action although defined differently in various jurisdictions) or if a Motion is already filed, take reasonable steps to avoid a ruling on the Motion, for up to 30 days to conduct an evaluation of the Borrower Response Package. Other legal actions must not be delayed at this time.
- **Nonjudicial Jurisdictions** - No delay in legal action is required to conduct an evaluation of the Borrower Response Package.

#### **Offer (Evaluation Notice Sent to Borrower)**

- **Judicial Jurisdictions** - If a servicer makes an offer for a foreclosure prevention alternative to the borrower, the servicer must continue to delay the Motion for Judgment (or equivalent action although defined differently in various jurisdictions) for up to 14 days for the borrower to respond.
- **Nonjudicial Jurisdictions** - If an offer is made, the servicer must delay the next legal action for up to 14 days for the borrower to respond.

#### **Borrower Acceptance**

- The borrower may indicate acceptance of the offer:
  - verbally,

- in writing (including e-mail responses), or
- by remitting a payment, or in the case of a liquidation option, submitting the required documentation, if applicable.

### **Borrower Response Package Received After 30-Day Response Period but Before 37 Days Prior to Foreclosure Sale**

#### **Evaluation – Borrower Response Package**

- No delay in legal action is required.

#### **Offer (Evaluation Notice Sent to Borrower)**

- No delay in legal action is required unless an offer is made and the foreclosure sale is within the borrower's 14-day response period. In those instances, the servicer must delay the foreclosure sale for up to 14 days to allow the borrower to respond.

#### **Borrower Acceptance**

- The borrower may indicate acceptance of the offer:
  - verbally,
  - in writing (including e-mail responses), or
  - by remitting a payment, or in the case of a liquidation option, submitting required documentation, if applicable.

### **Borrower Response Package Received After 30-Day Response Period but within Days 15 to 37 Prior to Foreclosure Sale**

#### **Evaluation – Borrower Response Package**

- Servicers must conduct an expedited review of the Borrower Response Package.
- No delay in legal action is required.

#### **Offer (Evaluation Notice Sent to Borrower)**

- No delay in legal action is required unless an offer is made and the foreclosure sale is within the borrower's 14-day response period. In those instances, the servicer must delay the foreclosure sale for up to 14 days to allow the borrower to respond.

#### **Borrower Acceptance**

- The borrower may indicate acceptance of the offer:
  - in writing (including e-mail responses), or
  - by remitting a payment, or in the case of a preforeclosure sale option, submitting required documentation, if applicable. The servicer must not offer a deed-in-lieu option at this time period.

## **Borrower Response Package Received Less Than 15 Days Prior to Foreclosure Sale**

### **Evaluation – Borrower Response Package**

- **Servicers are encouraged, but not required, to conduct an expedited review.**
- **No delay in foreclosure action is required.**

### **Offer (Notification and Evaluation Notice Sent to Borrower)**

- **The servicer must notify the borrower prior to the sale as to the servicer's determination (if the review was completed) or inability to review (if the review was not completed).**
- **No delay in foreclosure action is required unless an offer is made and the foreclosure sale is within the borrower's 14-day response period. In those instances, the servicer must delay the foreclosure sale for up to 14 days to allow the borrower to respond.**

### **Borrower Acceptance**

- **The borrower may indicate acceptance of the offer:**
  - **in writing (including e-mail responses), or**
  - **by remitting a payment, or in the case of a preforeclosure sale option, submitting required documentation, if applicable. Servicers must not offer a deed-in-lieu option at this time period.**

**Postponement of a foreclosure sale for a mortgage loan delinquent greater than 12 months as measured by the last paid installment (LPI) requires prior written approval by Fannie Mae.**

The servicer must delay the next legal action as required by these provisions as long as the delays are permitted under state or local law. The servicer is not in violation of this requirement to the extent that a court or public official fails or refuses to halt some or all activities in the matter after the servicer has made reasonable efforts to move the court or request the public official for a cessation of the activity or event. The servicer should consult with its legal counsel to determine the next legal action that would occur in the applicable jurisdiction.

### **Title Defects**

With respect to each first lien mortgage sold to Fannie Mae, the following warranties, among others, are made to Fannie Mae:

- that the mortgage is a valid and subsisting lien on the property,
- that the property is free and clear of all encumbrances and liens having priority over it except for liens for real estate taxes, and liens for special assessments, that are not yet due and payable, and
- that the mortgage and any security agreements, chattel mortgages, or equivalent documents relating to it have been properly signed, are valid and their terms may be enforced by us, our successors and assigns.

If loans referred to foreclosure cannot proceed because of title defects,

- the servicer must notify Fannie Mae of the issue, and
- Fannie Mae reserves the right to require repurchase of such loans if the defects are not resolved within 90 days of the attorney's (or trustee's) discovery of the defects or, at Fannie Mae's option, to pursue other remedies, including the assessment of compensatory fees for the delay caused by the title defects.

Delays by title insurance companies in processing and resolving claims, or disputes with title insurance companies over coverage issues will not excuse the servicer from its repurchase obligations or prevent the imposition of compensatory fees.

## **Account Review Prior to Foreclosure Sale**

### ***Servicing Guide, Part VIII, Section 105: Conduct of Foreclosure Proceedings***

The servicer must have written policies and procedures requiring a review of the delinquent mortgage loan file at least 30 days prior to the scheduled foreclosure (or trustee) sale.

At least 30 days prior to the scheduled foreclosure (or trustee) sale, the servicer must review the mortgage loan history to verify compliance with all required delinquency management requirements and that no approved payment arrangement or foreclosure prevention alternative offers are pending or accepted. If the servicer finds that all required delinquency management requirements have not been met or an approved payment arrangement or foreclosure prevention alternative offer is still pending, the servicer must fulfill the delinquency management requirements or resolve outstanding offers prior to the foreclosure certification date referenced below.

### **Postponement of Escalated Cases**

If the mortgage loan has been referred to an attorney (or trustee) to commence foreclosure, the servicer must make every effort to expedite a review of the borrower's escalated case and provide a resolution within the time frames specified in this Announcement or by the foreclosure certification date (defined below), whichever is earlier. The servicer may postpone a foreclosure sale to facilitate case resolution, provided that the escalated case was received prior to the foreclosure certification date. The servicer, however, will be subject to foreclosure timeline compensatory fees if such a postponement results in the servicer exceeding state foreclosure timelines, and the postponement was due to the servicer's failure to follow Fannie Mae guidelines or other servicer error.

If an escalated case is unresolved at the time of a foreclosure sale, the servicer must still resolve the escalated case after foreclosure sale, and when appropriate, the servicer will be required to take corrective action.

### **Certification Prior to Foreclosure Sale**

#### ***Servicing Guide, Part VIII, Section 105.02: Communication Regarding Workout Agreements***

The servicer must keep the attorney (or trustee) advised about the status of foreclosure prevention alternative negotiations and must consult with the attorney (or trustee) before it

actually enters into a written foreclosure prevention alternative agreement in order to ensure that the foreclosure proceeding is not impaired in the event that it has to be resumed.

At least 7 days, but no later than 15 days prior to the foreclosure sale, the servicer must complete another account review. If, based on the account review, the servicer determines that all delinquency management requirements have been achieved and that there is neither an approved payment arrangement nor a foreclosure alternative offer pending or accepted, the servicer must send written certification to the attorney (or trustee) at least 7 days, but no greater than 15 days prior to the foreclosure sale date indicating the attorney (or trustee) must continue with the foreclosure sale.

The servicer must not issue a certification to the foreclosure attorney (or trustee) if:

- a Borrower Response Package was received **and** an offer for a payment arrangement or foreclosure prevention alternative was made on or before the seventh day prior to the foreclosure sale, or
- the servicer exercised its discretion to postpone the foreclosure sale to facilitate resolution of an escalated case.

In these situations, the servicer must not provide the certification and must make every effort to stop a scheduled foreclosure sale.

Attorneys (or trustees) will be instructed to postpone the foreclosure sale if the certificate is not received prior to the foreclosure sale date. The servicer must work with the attorney (or trustee) to develop a process for receipt of the certification to prevent unnecessary delays. Delays in the foreclosure proceeding timelines resulting from cancellation of the foreclosure sale or from a servicer's failure to provide timely certification to the attorney (or trustee) will be subject to compensatory fees.

### **Cancellation of Foreclosure Sale**

The servicer must cancel the foreclosure (or trustee) sale once the borrower has successfully completed the foreclosure prevention alternative. For a modification, the sale should not be cancelled until all payments have been made in accordance with the trial period plan and is successfully completed and the loan modification agreement has been signed by the borrower(s).

### **Updates to Fannie Mae Modification Requirements**

In Announcement SVC-2011-03, *Updates to Fannie Mae's Mortgage Modification Requirements*, Fannie Mae identified eligibility criteria for a Fannie Mae modification. With this Announcement, Fannie Mae is clarifying and adding new eligibility requirements to implement a uniform structure for a Fannie Mae modification, including a process for determining modification terms. Unless clarified in this Announcement, all other requirements indicated in Announcement SVC-2011-03 remain effective. Servicers must first evaluate the borrower for a Fannie Mae HAMP modification. If the borrower is eligible and qualifies for a Fannie Mae HAMP modification, the servicer must offer the borrower a Fannie Mae HAMP modification. If the borrower is not eligible or does not qualify for a Fannie Mae HAMP modification, the servicer must evaluate the borrower for a modification as described below.

**Servicers must be judicious when determining whether a modification over a special relief option, such as a forbearance plan or a repayment plan, is the most appropriate option to resolve a delinquency. Generally, a servicer must first consider a reinstatement or a repayment plan when the delinquency resulted from a temporary hardship that has been resolved and servicer has determined that the borrower has the ability to either bring the loan current through reinstatement or meet the payment terms of the repayment plan over the duration of the plan. A modification should only be considered for borrowers who are still experiencing a financial hardship, which was caused by a permanent or long-term decrease in income or increase in expenses.**

Except as noted in this Announcement, all other requirements provided in the *Servicing Guide* as amended by Announcements, remain unchanged.

## **Effective Date**

**Servicers are required to implement the revised requirements for all Fannie Mae mortgage loans evaluated for a modification on or after October 1, 2011.** Effective **October 1, 2011**, the *Updates to Fannie Mae Modification Requirements* section supersedes all existing requirements relating to Fannie Mae non-HAMP modifications as provided in any servicer delegation or directive issued by Fannie Mae prior to January 1, 2011.

## **Eligibility**

A mortgage loan is eligible for a Fannie Mae non-HAMP modification if all the following criteria are met:

- The mortgage loan is either delinquent or a default is reasonably foreseeable (imminent), in accordance with the *Servicing Guide*, Part VII, Section 602: Mortgage Modifications.

Fannie Mae reminds servicers to follow the evaluation requirements indicated in Fannie Mae Announcement SVC-2011-06: *Updates to Imminent Default Definition and Determining Market Value for Preforeclosures* for all loans being reviewed for a Fannie Mae HAMP modification or a Fannie Mae non-HAMP modification secured by an owner-occupied property and that is either current or in default but less than 60 days delinquent at the time of evaluation.

- The mortgage loan must have been originated at least 12 months prior to the evaluation date for the mortgage loan modification.
- The borrower must have a financial hardship.
- The property may be owner-occupied or non-owner-occupied.
- The property may be vacant, but must not be condemned.
- The borrower must have verified income (unemployment income is not an acceptable source of income). Refer to [eFannieMae.com](http://eFannieMae.com) for *Income Documentation Requirements for Foreclosure Prevention Alternatives*, for all new requirements related to the verified income requirements

- Borrowers who previously received and defaulted on either a Fannie Mae HAMP modification (or Fannie Mae HAMP Trial Period Plan) or a Fannie Mae cash flow/surplus income modification, are eligible for consideration for a new modification. Any other mortgage loan that was previously modified and that becomes 60 or more days delinquent within the first 12 months of the effective date of the mortgage loan modification is ineligible for a modification and upon the occurrence of such event the servicer must immediately work with the borrower to pursue a reinstatement, preforeclosure sale, deed-in-lieu of foreclosure, or commence foreclosure proceedings, in accordance with the mortgage loan documents and applicable state law.

The modification must result in a post-modification housing expense to income ratio that is greater than or equal to 10% and less than or equal to 55%, as described below in the Calculating the Housing Expense-to-Income Ratio section.

Fannie Mae will consider exceptions to the above eligibility criteria only when there are extenuating circumstances (for example, a borrower's re-default results from a new hardship and the borrower can now demonstrate the ability to make payments to retain the property, or a borrower defaulted on a Fannie Mae HAMP modification or prior Fannie Mae modification because of unemployment but has since regained employment). The servicer must submit a request to Fannie Mae for review if the servicer believes, based on the borrower's circumstances, that a modification is appropriate.

## **Modification Terms**

### **Mortgage Loans with a pre-modification Mark-to-Market LTV (MTMLTV) ratio greater than or equal to 80 Percent**

The MTMLTV ratio is defined as the gross unpaid principal balance (UPB) of the mortgage loan divided by the current value of the property that secures the mortgage loan.

If the MTMLTV ratio using the gross UPB of the current mortgage loan is greater than or equal to 80%, the servicer must follow all of the steps (in order) provided below to determine the borrower's new modified payment terms:

**Note:** Any principal forbearance amount from a prior modification must be added to the interest-bearing UPB when evaluating the loan for a subsequent modification.

- Capitalize arrearage;

The following are considered as acceptable arrearages for capitalization: accrued interest, out-of-pocket escrow advances to third parties, and any required escrow advances that will be paid to third parties by the servicer during the trial period and servicing advances paid to third parties in the ordinary course of business and not retained by the servicer, if allowed by state laws.

Late fees may not be capitalized and must be waived if the borrower satisfies all conditions of the trial period plan. If applicable state law prohibits capitalization of past-due interest or any other amount, the servicer must collect such funds from the borrower over a period not to exceed 60 months unless the borrower decides to pay the amount upfront.

- Set the interest rate to a fixed-rate (initially 5%, which fixed-rate may be subsequently adjusted from time to time for new modifications based on market conditions and communicated by Fannie Mae to the servicer);
- Extend the term to 480 months from the modification effective date; and
- For mortgage loans with a pre-modification MTMLTV ratio greater than 115%, forbear principal in an amount that is the lesser of:
  - an amount that would create a post modified MTMLTV ratio of 115% using the interest-bearing principal balance, or
  - 30% of the gross post-modified UPB of the mortgage loan (including capitalization of arrearages). The servicer must stop forbearing principal once the modified interest-bearing UPB results in a 115% MTMLTV ratio or the amount of forbearance equals 30% of the post-modification UPB, whichever is first. Interest will not accrue on the deferred principal. Deferred principal is payable upon maturity of the mortgage loan modification, sale or transfer of the property, or refinance.
- The modification must result in a P&I reduction of at least 10% (i.e., from the current contractual monthly P&I obligation on the mortgage loan, whether or not previously modified).

For adjustable-rate mortgage loans including a monthly payment option (for example, specified minimum payment, interest-only payment, 30-year fully amortizing payment, or 15-year fully amortizing payment), the payment used to measure the 10% P&I reduction from the current contractual P&I monthly payment obligation must be the current payment legally due at the time the servicer determines eligibility for the modification, regardless of imminent changes in the rate or amount of payment for the current loan terms.

This principal and interest payment eligibility requirement is based on the trial period plan payment. The servicer is not required to recalculate the principal and interest payment at the end of the trial period plan to determine eligibility of this requirement in the event the permanent modified payment amount differs from the trial period plan.

If during the evaluation the servicer is not able to obtain a reduction in the principal and interest payment of at least 10%, the servicer must submit the file to Fannie Mae for review and decision for a modification, before considering a liquidation option (e.g., a preforeclosure sale, deed-in-lieu of foreclosure, or foreclosure).

The modified mortgage loan must be a fully amortizing fixed-rate mortgage loan. The mortgage loan may not be modified to or maintained as an adjustable-rate mortgage loan, an interest-only mortgage loan, a biweekly mortgage loan, or a daily simple interest mortgage loan.

**Note:** Servicers must continue to use the underwriting terms for the Fannie Mae HAMP program described in the *Servicing Guide*, Part VII, 609.03.06: Standard Modification Waterfall, for borrowers eligible for Fannie Mae HAMP.

For mortgage loans with a pre-modification MTMLTV less than 80%, the servicer must submit the case to Fannie Mae for review and decision as a non-delegated case.

## Calculating the Housing Expense-to-Income Ratio

### Primary Residences

If the subject property is a primary residence, the post-modification housing expense-to-income ratio is the monthly PITIA payment (described below), divided by the borrower's monthly gross income.

**Note:** For Fannie Mae non-HAMP modifications, the monthly housing expense is the sum of the following (excluding mortgage insurance premiums) and is referred to as the PITIA payment:

- Principal and Interest
- Hazard and Flood Premiums (as applicable)
- Real Estate Taxes
- Ground Rent
- Special Assessments
- Homeowners Association Dues (including utility charges that are attributable to the common areas, but excluding any utility charges that apply to the individual unit), and
- Co-op Corporation Fee (less the *pro rata* share of the master utility charges for servicing individual units that is attributable to the borrower's unit).

### Second Homes

If the subject property is a second home, the post-modification monthly housing expense on the second home (PITIA) must be added to the monthly housing expense on the borrower's primary residence.

### Investment Properties

- If the subject property is an investment property, the servicer must take into account net rental income when calculating the housing expense-to-income ratio. Net rental income on the subject property must be added to the borrower's gross monthly income for purposes of calculating the post-modification housing expense-to-income ratio.
- The net rental income (or net rental loss) on the subject property must be calculated as 75% of the monthly gross rental income, reduced by the monthly housing expense (PITIA) on the rental property.
- Any monthly negative net rental income (i.e., net rental loss) on the subject property must be added to the PITIA on the borrower's primary residence and then the combined amount is divided by the monthly gross income.
- If the borrower currently is not receiving rental income on the subject property, then the monthly housing expense on the subject property must be added to the PITIA on the borrower's primary residence and then divided by the monthly gross income.
  - This post-modification housing expense-to-income ratio eligibility requirement is based on the trial period plan payment. The servicer is not required to recalculate the housing ratio at the end of the trial period plan to determine if the loan is still eligible in the event the permanent modified payment amount differs from the trial period plan.

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

As a reminder, as required by the *Servicing Guide*, a modification of any MBS mortgage loan can only become effective after it has been removed from the MBS pool. Note the following MBS reclassification requirements:

### **Reclassification of MBS Mortgage Loans – Imminent Default**

For mortgage loans in MBS pools where the servicer has determined that a borrower's payment default is imminent and that a Trial Period Plan of four trial period payments is required, reclassifications are subject to the following:

- Fannie Mae will reclassify the mortgage loan during the fourth month of the trial period if the borrower has made the fourth payment in accordance with the Trial Period Plan and the servicer has accepted the payment and notified Fannie Mae of receipt of the payment on or before the fifteenth calendar day (the servicer's reclassification date) of the fourth month of the trial period.
- If the fourth trial period payment is received after the fifteenth calendar day (the servicer's reclassification date) of the fourth month of the trial period but before the end of the trial period, then it will not be possible to reclassify the loan from the MBS pool during the fourth month of the trial period. In such event, the servicer must extend the trial period by one month, and the reclassification date will be the fifteenth calendar day of such extended month. If the servicer has not notified Fannie Mae of its receipt of the final trial period payment on or before the servicer's reclassification date, the servicer shall extend the trial period for an additional month.

### **Reclassification of MBS Mortgage Loans – Payment in Default**

For any MBS mortgage loan that already has a payment in default at the time the modification is negotiated and three trial period payments are required, reclassifications are subject to the following:

- Fannie Mae will reclassify the mortgage loan during the third month of the trial period if the borrower has made the third payment and the servicer has accepted the payment and notified Fannie Mae of receipt of the payment on or before the fifteenth calendar day (the servicer's reclassification date) of the third month of the trial period.
- If the third trial period payment is received after the fifteenth calendar day (the servicer's reclassification date) of the third month of the trial period but before the end of the trial period, then it will not be possible to reclassify the loan from the MBS pool during the third month of the trial period. In such event, the servicer must extend the trial period by one month, and the reclassification date will be the fifteenth calendar day of such extended month. If the servicer has not notified Fannie Mae of its receipt of the final trial period payment on or before the servicer's reclassification date, the servicer shall extend the trial period for an additional month.

## **Processing the IRS Form 4506T-EZ**

For all modifications, including Fannie Mae HAMP modifications, all borrowers must provide the servicer with a signed IRS Form 4506T-EZ or **IRS Form 4506-T that will allow the servicer**

**(directly or through an authorized designee) to obtain the borrower's most recent federal income tax transcript from the Internal Revenue Service.** A copy of the signed form must be retained in the mortgage loan servicing file.

The servicer must submit the IRS **Form 4506T-EZ** or IRS Form 4506-T (if applicable) to the IRS to obtain a copy of the borrower's tax transcript in the following instances:

- The borrower is being evaluated for a Fannie Mae HAMP but the borrower has not provided his or her signed federal income tax return, complete with all schedules and forms;
- To reconcile inconsistencies between other information the borrower provided (e.g., information the borrower provided in the *Uniform Borrower Assistance Form*) and the income documentation;
- The borrower has income that is required to be documented by the borrower's most recent federal income tax return but the borrower has not provided his or her tax return, complete with all schedules (e.g., self-employed borrowers); or
- Upon request by Fannie Mae.

IRS Form 4506T-EZ or IRS Form 4506-T are available at [irs.gov](http://irs.gov). Servicers are encouraged to use the IRS Income Verification Express Service (IVES), which uses secure e-mail to deliver tax return transcripts to servicers.

## **Hardship Documentation**

Fannie Mae requires borrowers to submit the hardship documentation set forth in the *Uniform Borrower Assistance Form* (Form 710) to demonstrate a valid long-term or permanent hardship for all modifications, including Fannie Mae HAMP modifications. The *Uniform Borrower Assistance Form*, (Form 710) replaces the *Fannie Mae Hardship Affidavit* (Form 194), and the *HAMP Hardship Affidavit* (Form 1021) for Fannie Mae loans.

Refer to [eFannieMae.com](http://eFannieMae.com) for *Hardship Documentation Requirements for Foreclosure Prevention Alternatives* for all requirements related to the new hardship documentation.

## **Modification Incentive Fees**

Effective for all Fannie Mae non-HAMP modifications entered into HomeSaver Solutions<sup>®</sup> Network (HSSN) with a Trial Period Plan effective date on or after **October 1, 2011**, Fannie Mae will pay the servicer based on a tiered incentive structure. The new incentive fee structure is designed to encourage the servicer to identify and provide a reasonable solution to a borrower who is experiencing a financial hardship at the very early stages of the delinquency. For the servicers identified for inclusion by Fannie Mae in the Incentives and Compensatory Fees for Borrower Response Packages section above, a workout fulfillment benchmark must also be met before modification incentives fees will be paid. Fannie Mae will provide additional information to those servicers designated to participate.

The new incentive fee structure is based on the number of days the mortgage loan is delinquent as of the Trial Period Plan Effective Date. Servicer incentive fees will be paid upon modification as follows:

<b>No. of Days Delinquent at Trial Period Plan Effective Date</b>	<b>Incentive Amount</b>
Less than or equal to 120 days delinquent (150 days from LPI)	\$1,600
121 days or more delinquent to and including 210 days delinquent (151 to 240 days from LPI)	\$1,200
Greater than 210 days delinquent (greater than 240 days from LPI)	\$400

Incentive fees will not be paid if the servicer settles the modification more than two months after the end of the trial period plan. The two-month period should begin on the last day of the end of the month in which the final trial payment is due.

As an example: For a loan with a 4-month trial period and an effective date (first payment date) of October 1, 2011, the trial period would end on January 31, 2012. If the borrower makes all of the scheduled payments on time, the expectation is that the modification effective date is February 1, 2012. By March 31, 2012, the servicer must report a closed case in HSSN (signifying that it has an executed modification agreement with signatures from the borrower and the servicer) reflecting the modification effective date of February 1, 2012.

No servicer is permitted to ignore a defaulted mortgage loan. When this new incentive fee policy is implemented, servicers will continue to be responsible for pursuing foreclosure prevention efforts for all mortgage loans that are more than 210 days past due, and if no foreclosure prevention alternative is available, manage these mortgage loans through the foreclosure process. Fannie Mae intends to assess compensatory fees calculated based on the length of any inactivity or delay and for any additional costs that are directly attributable to failure by the servicer to perform its servicing obligations.

Notwithstanding the above incentives, for modification cases entered into HSSN with a Trial Period Plan Effective Date prior to **October 1, 2011**, the servicer will receive an \$800 incentive fee upon modification.

Fannie Mae encourages servicers to share incentive payments with employees as performance-based rewards. Servicers are also encouraged to create employee-challenge initiatives designed to motivate employees, to promote borrower engagement earlier in the default management process, and to successfully resolve delinquencies earlier.

## **Forbearance**

Mortgage loans less than or equal to 60 days delinquent that have been placed in forbearance are eligible for the \$1,600 incentive fee only if a Fannie Mae non-HAMP Trial Period Plan begins immediately following the forbearance period, and if the forbearance was based on one of the following hardships:

- natural disaster,
- death of borrower or co-borrower or death of family member who contributed towards the mortgage loan payment,
- divorce or separation and borrower will be legally awarded the property,
- inability to pay due to pending settlement of a disability or major medical claim,
- unique hardship as defined in Announcement SVC-2010-11: *Unique Hardships*, and
- unemployed borrowers.

Incentives for all other mortgage loans placed in forbearance will be calculated based on the number of days the mortgage loan is delinquent as of the Trial Period Plan Effective Date.

Before agreeing to grant forbearance to a borrower, the servicer must have made contact with the borrower and must have a clear understanding of the nature of the hardship.

Forbearance must be offered when the borrower has demonstrated one of the financial hardships listed above and needs additional time to resolve the hardship. Once the hardship is resolved, one of the following must occur:

- The mortgage loan is brought current via a reinstatement or the borrower enters into a Repayment Plan.
- The borrower is approved for a mortgage loan modification or another foreclosure prevention alternative.
- The mortgage loan is paid in full.

It is inappropriate for the servicer to put a borrower on a forbearance plan without a clear understanding of the reason for default. The nature of the hardship and the forbearance terms must be clearly documented in the servicer files in an accessible manner and made available to Fannie Mae upon request.

As described in Announcement SVC-2010-15: *Updates to Fannie Mae's Forbearance, Income Eligibility, and Home Affordable Modification Program Requirements*, if the servicer wishes to grant a forbearance period longer than six months, it must receive written approval from Fannie Mae. The servicer may approve a forbearance period up to six months without obtaining Fannie Mae approval.

When the servicer has agreed to accept reduced or suspended payments under a forbearance agreement, the servicer must report a Delinquency Status Code 09 – Forbearance, as well as an accurate Delinquency Reason Code.

## **Bankruptcy**

Mortgage loans that are placed in bankruptcy are eligible for the \$1,600 incentive fee only if a Fannie Mae non-HAMP Trial Period Plan begins immediately following the bankruptcy period.

## **Borrower Inquiries and Escalated Cases**

### **Servicer Processes and Procedures**

***Servicing Guide*, Part I, Section 312: Borrower Inquiries, and Part VII, Section 101: Written Procedures, and Section 102: Quality Assurance Program for Delinquency and Default Prevention**

A complaint or dispute from the borrower, the borrower's trusted advisor, housing counselor, federal agency, or elected official that rises to the level of an escalated case includes but is not limited to, the following:

- allegations that the servicer did not evaluate the borrower for foreclosure prevention alternatives according to the *Servicing Guide* or that the borrower was inappropriately denied a foreclosure prevention alternative;
- allegations of fraudulent servicing practices;
- inappropriate initiation or failure to suspend foreclosure actions in violation of the *Servicing Guide*;
- complaints threatening litigation; or
- violation of Fannie Mae policy time frames for borrower outreach, evaluation, or the time permitted for borrower response.

General inquiries pertaining to the status of an evaluation or the content of an Evaluation Notice where the servicer is in compliance with Fannie Mae requirements is not considered an escalated case.

The servicer must have comprehensive processes and written procedures to promptly respond to escalated cases.

The servicer's escalation process must be prominently placed on its Web site and must:

- include a process for borrower initiation of inquiries, including a toll-free contact number; and
- provide service level agreements with explicit response timelines.

Servicers must regularly review and assess the adequacy of internal controls and procedures in connection with servicing activities to ensure compliance with the *Servicing Guide* and applicable law. Servicers must take remedial steps, as appropriate, if any deficiencies are identified as a result of their review of internal controls or processes or issues are identified from a review of an escalated case. The servicer must formally document the results of such reviews and make the review results available to Fannie Mae upon request.

## **Staffing Requirements**

### ***Servicing Guide*, Part I, Section 312: Borrower Inquiries and Part VII, Section 103: Staffing and Training**

Staff managing escalated cases must be independent from the staff who handled the initial evaluation decision on the borrower's request for assistance. For small and mid-sized servicers, it may be an individual independent from the individual who handled the initial evaluation decision. Large servicers (those servicing more than 65,000 mortgage loans) are expected to have an independent case escalation unit.

Servicer staffing levels and training must be conducive to the management of escalated cases in accordance with the timing requirements indicated in this Announcement. Servicers must have written procedures and sufficient staff in place who are adequately trained to be able to track and respond to escalated cases in accordance with Fannie Mae's requirements. Servicers must ensure that escalated cases are provided fair consideration and timely resolution, and that, at a minimum, their staff members:

- are trained on the case escalation process and procedures,
- are knowledgeable in all aspects of collection and foreclosure prevention strategies,
- are directly accessible by phone and e-mail,

- have access to all borrower documentation and information in the servicing system or servicing file necessary to resolve escalated cases, and
- have proper authorization to resolve escalated cases.

## **Escalation Resolution Process**

### ***Servicing Guide, Part I, Section 312: Borrower Inquiries***

Upon receipt from a requestor, the servicer must document the date on which the escalated case was received. Within three business days following receipt, the servicer must acknowledge the inquiry in writing via e-mail, fax, or mail, and provide the requestor and, as applicable, the borrower:

- a contact name or department;
- a case reference name or number;
- a resolution date, or date by which the servicer will resolve the escalated case, which must be no more than 15 days from the date the inquiry was received; and
- a toll-free escalation contact phone number at the servicer.

If the servicer fails to resolve the escalated case by the resolution date, the servicer may extend the resolution date for an additional 15 days; however, under no circumstances may the total time for resolution of an escalated case exceed 30 days.

Within five business days of identifying the proposed resolution, the servicer must communicate in writing to the requestor and, as applicable, the borrower, the proposed resolution and next steps, if applicable. The servicer must retain in the servicing file the written communication of the proposed resolution and all documentation and information received during the review of the escalated case.

If the servicer fails to comply with the requirement to resolve the escalated case by the resolution date, the servicer must provide an updated status to the requestor, and as applicable, the borrower, on the resolution dates.

Servicers must not postpone foreclosure referral as required by Fannie Mae due to the review of an escalated case.

If the mortgage loan has been referred to foreclosure, the servicer must make every effort to expedite review of the borrower's case and provide a resolution within the time frames specified above or by the foreclosure certification date (that is, seven days prior to foreclosure sale date), whichever is earlier. The servicer may postpone a foreclosure sale to facilitate case resolution, provided that the escalated case was received prior to the foreclosure certification date. However, the servicer will not receive relief from foreclosure timeline compensatory fees if such a postponement results in the servicer exceeding state foreclosure timelines, and the postponement was due to the servicer's failure to follow the applicable Fannie Mae guidelines or other servicer error.

If an escalated case is pending at the time of a foreclosure sale, the servicer must still resolve the escalated case, and when appropriate, the servicer will be required to take corrective action.

## Confidentiality of Files and Records

### ***Servicing Guide, Part I, Section 309: Conflict of Interest/Confidentiality and Chapter 4: Mortgage Loan Files and Records***

Servicers are reminded that they must implement appropriate measures designed to ensure the security, integrity, and confidentiality of individual mortgage loan files and borrower payment records and to protect against unauthorized access to or use of such mortgage loan files and records. Accordingly, the servicer must ensure that a borrower's information, including Nonpublic Personal Information (NPI), is not disclosed to any individual or entity, including the requestor, unless the borrower and co-borrower have each authorized release of such information in writing.

If a servicer is in receipt of an RMA, *Uniform Borrower Assistance Form*, or Hardship Affidavit signed by the borrower(s), no additional release is needed to disclose such information to any investor, insurer, guarantor, or servicer that owns, insures, guarantees, or services the first lien or subordinate lien (if applicable) mortgage loan(s) or to any HUD-certified housing counselor.

## Case Resolution

### ***Servicing Guide, Part I, Section 312: Borrower Inquiries***

An escalated case is considered to be resolved when the inquiry has been reviewed in accordance with the applicable Fannie Mae guidelines and the servicer:

- proposes a resolution that corresponds to one of the resolution categories listed below or determines that no change in the original decision is warranted;
- documents the proposed resolution in the servicing file including a date the resolution was reached;
- has communicated in writing to the requestor and, as applicable, the borrower, the proposed resolution and next steps within five business days of identifying the proposed resolution; and
- has taken the first action to implement the resolution.

The resolution categories are:

- Action not Allowed – Bankruptcy in Progress
- No Action Taken (borrower current and determined able to pay)
- Mortgage Loan Paid Off
- Forbearance Plan
- Repayment Plan
- Fannie Mae HAMP/2MP Trial Period Plan
- Fannie Mae HAMP/2MP Permanent Modification
- Fannie Mae Non-HAMP Trial Period Plan Modification
- Preforeclosure Sale
- Deed-in-Lieu of Foreclosure
- Foreclosure Initiated/Pending
- Foreclosure Completed
- Other Foreclosure Alternative

## **Substantially Similar Cases**

When the substance of an inquiry or escalated case is substantially similar to a previously resolved escalated case and the inquiry is in connection with the same mortgage loan and the same borrower, the servicer is not obligated to review the case. The servicer must document the decision not to review a substantially similar case in the servicing file.

## **Escalated Case Reporting**

The servicer must document in the servicing file records of all communication in connection with an escalated case. The servicer must report the status and provide any information on escalated cases to Fannie Mae upon request. All such reports and relevant communication must be documented in the servicing file.

## **Mortgage Loans Secured by Properties in Florida Subject to Pre-filing Mediation**

### ***Servicing Guide, Part VII, Section 611: Mandatory Pre-Filing Mediation Policy for Mortgage Loans in Florida***

The requirements in this Announcement also apply to delinquent mortgage loans in the State of Florida except for the accelerated outreach and referral timeline requirements specified in the *Servicing Guide*.

The servicer must try to accomplish as many of the outreach calls as possible as set forth in the Outbound Call Attempts section of this Announcement, while remaining within the bounds of the referral guidelines in the *Servicing Guide, Part VII, Section 611.02: Referral*. If the servicer is successful in making QRPC with the borrower and the borrower evidences interest in foreclosure prevention alternatives, but no alternative is completed prior to the referral deadline, the servicer must advise the borrower that:

- the mortgage loan will be referred to a mediation program manager who will be contacting the borrower regarding mediation,
- the foreclosure prevention alternatives discussions will occur within the mediation process, and
- the borrower should agree to participate in the mediation process in order to see if there is a mutually agreeable foreclosure prevention alternative available to the borrower.

As a reminder, the servicer must send the first *Borrower Solicitation Letter* (Form 731) on day 31 of delinquency. Servicers are not required to send the second *Borrower Solicitation Letter* (Form 761).

The servicer should alert the borrower that the mediation process can occur in a pre-foreclosure filing context or after a foreclosure complaint is filed, depending on the location of the property. The Borrower Solicitation Package should be provided to the mediation program manager prior to the mediation session. The mediation program manager will send the Borrower Solicitation Package to the borrower prior to the mediation with instructions for the borrower to complete the documentation prior to the mediation. The Post Referral to Foreclosure Solicitation Letter should include information regarding the mediation process and contact information for the mediation

program manager. Servicers are reminded that they must send the valid borrower phone numbers with the referrals to the network law firms so that mediation program managers will be able to reach out to the borrower.

The servicer must offer the borrower the appropriate foreclosure prevention alternatives during the mediation session. Servicers may not rely on verbal or written acceptance but must obtain executed documents from borrowers for any foreclosure prevention alternative offered to a borrower at mediation.

However, for the purpose of consistency, the servicer should not continue to use the abbreviated documentation checklist of required financial documents for loans secured by properties in Florida subject to pre-filing mediation, published in connection with the *Servicing Guide*, Part VII, Section 611. Instead, servicers must immediately replace that list with the forms and documents contained in the Borrower Solicitation Package.

### **Additional Information**

Fannie Mae is offering a variety of tools and resources to help servicers implement the changes outlined in this Announcement including training, Webinars, job aids, and Frequently Asked Questions. Servicers are strongly encouraged to participate in the training and take advantage of the available tools and resources. Servicers should be on the lookout for information from Fannie Mae concerning training dates and topics and the availability of other resources. Servicers are also encouraged to refer to eFannieMae.com on a regular basis as new and updated information will become available.

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

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Chief Risk Officer for Credit Portfolio Management