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9 STATE OF NEVADA

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11 SATICOY BAY LLC SERIES 4641  
VIAREGGIO CT,

CASE NO.: 82449

12 Appellant,

13 vs.

14 NATIONSTAR MORTGAGE LLC,

15  
16 Respondent.  
17

18 **APPELLANT'S APPENDIX VOLUME 9**  
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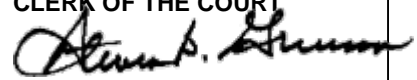
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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SATICOY BAY LLC SERIES 4641  
VIAREGGIO CT,

Plaintiffs,

v.

NATIONSTAR MORTGAGE LLC, COOPER  
CASTLE LAW FIRM, LLP; and MONIQUE  
CUILLORY,

Defendants.

Case No.: A-13-689240-C

Dept.: XIV

**NATIONSTAR MORTGAGE LLC'S  
SUMMARY JUDGMENT MOTION**

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

SATICOY BAY LLC SERIES 4641  
VIAREGGIO CT; NAPLES COMMUNITY  
HOMEOWNERS ASSOCIATION; LEACH  
JOHNSON SONG & GRUCHOW; DOES I  
through X; and ROE CORPORATIONS I  
through X, inclusive,

Counter-Defendants.

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## INTRODUCTION

Plaintiff Saticoy Bay LLC Series 4641 Viareggio Ct (“Saticoy Bay”) alleges that a homeowners’ association foreclosure sale (“HOA Sale”) extinguished a deed of trust then encumbering real property that Saticoy Bay subsequently purchased. Saticoy Bay relies on NRS 116.3116 (the “State Foreclosure Statute”), which allows properly conducted HOA foreclosure sales to extinguish all junior interests.

But at the time of the HOA Sale, Nationstar Mortgage, LLC (“Nationstar”) was beneficiary of record of that deed of trust as a contractually authorized servicer for the Federal Home Loan Mortgage Corporation (“Freddie Mac”), which owned the deed of trust and therefore had a property interest. A federal statute provides that while Freddie Mac is in conservatorship of the Federal Housing Finance Agency (“FHFA”), none of its property “shall be subject to . . . foreclosure . . . without the consent of [FHFA].” 12 U.S.C. § 4617(j)(3) (the “Federal Foreclosure Bar”).

The Nevada Supreme Court has confirmed that the Federal Foreclosure Bar preempts the State Foreclosure Statute, and further concluded that the Federal Foreclosure Bar protects Freddie Mac’s property interests under circumstances where, as here, Freddie Mac’s servicer appears as record beneficiary of a deed of trust Freddie Mac owns. *See, e.g., Daisy Trust v. Wells Fargo Bank, N.A.*, 445 P.3d 846 (Nev. 2019); *Saticoy Bay LLC Series 9641 Christine View v. Fannie Mae*, 417 P.3d 363 (Nev. 2018); *Collegium Fund LLC Series 7 v. Ditech Fin., LLC*, No. 76168, 2020 WL 3469189, at \*1 (Nev. June 24, 2020) (unpublished disposition); *Citimortgage, Inc. v. River Glider Ave. Tr.*, No. 75294, 2020 WL 3415781, at \*1 (Nev. June 19, 2020) (unpublished disposition). The Ninth Circuit and many state and federal trial courts have held the same. *See, e.g., FHFA v. SFR Invs. Pool I, LLC*, 893 F.3d 1136 (9th Cir. 2018), *cert. denied*, 139 S. Ct. 1618 (2019); *Berezovsky v. Moniz*, 869 F.3d 923 (9th Cir. 2017); *M&T Bank v. SFR Invs. Pool I, LLC*, 963 F.3d 854, 856 (9th Cir. 2020); *Freddie Mac v. T-Shack, Inc.*, 806 F. App’x 575 (9th Cir. 2020) (unpublished disposition); *Ditech Fin. LLC v. Saticoy Bay LLC Series 8829 Cornwall Glen*, 794 F. App’x 667 (9th Cir. 2020) (unpublished disposition).

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Indeed, this Court recently denied Saticoy Bay’s Motion for Summary Judgment in this case, finding that Nevada law “do[es] not require that Freddie Mac be identified as the beneficiary on the

publicly recorded deed of trust to establish its ownership interest in the subject loan” and that business records could establish that interest. Minute Order, Nov. 2, 2020 at 1-2 (“Minute Order”).

As explained herein, Freddie Mac has been in FHFA conservatorship at all relevant times, and FHFA did not consent to the extinguishment of Freddie Mac’s property interest. Under the Supremacy Clause, the Federal Foreclosure Bar preempts the State Foreclosure Statute, and the HOA Sale did not extinguish Freddie Mac’s deed of trust.

For these reasons, the Court should enter summary judgment in favor of Nationstar.

## **BACKGROUND**

### **I. The Secondary Mortgage Market**

In 1970, Congress chartered Freddie Mac to facilitate the nationwide secondary mortgage market, and thereby to enhance the equitable distribution of mortgage credit throughout the nation. *See City of Spokane v. Fannie Mae*, 775 F.3d 1113, 1114 (9th Cir. 2014). Congress has confirmed that “the continued ability of [Fannie Mae] and [Freddie Mac] to accomplish their public missions is important to providing housing in the United States and the health of the Nation’s economy.” 12 U.S.C. § 4501. Freddie Mac’s federal statutory charter authorizes it to purchase and deal only in secured “mortgages,” not unsecured loans. *See* 12 U.S.C. §§ 1451(d), 1454; *see also Lightfoot v. Cendant Mortg. Corp.*, 137 S. Ct. 553, 557 (2017) (discussing similarly-situated Fannie Mae’s role as a purchaser of mortgages); *FHFA v. Nomura Holding Am., Inc.*, 873 F.3d 85, 105 (2d Cir. 2017) (same); *Perry Capital LLC v. Mnuchin*, 864 F.3d 591, 599-600 (D.C. Cir. 2017) (same).

Freddie Mac has purchased millions of mortgages nationwide, including hundreds of thousands in Nevada. In 2012, “the value of the combined debt and mortgage-related assets of [Freddie Mac and Fannie Mae] along with the Federal Home Loan Banks . . . exceed[ed] \$5.9 trillion” nationwide. *Town of Babylon v. FHFA*, 699 F.3d 221, 225 (2d Cir. 2012). Indeed, “[t]he position held in the home mortgage business by Fannie Mae and Freddie Mac make[s] them the dominant force in the market.” *Id.* Their dominant position continues to today. *See Nomura*, 873 F.3d at 105; *Perry*, 864 F.3d at 599.

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Although Freddie Mac owns a large number of mortgage loans through its purchases on the secondary market, it is not in the business of managing the mortgages themselves, such as handling



day-to-day borrower communications. Rather, like other investors in loans, Freddie Mac contracts with servicers to act on its behalf. These servicers often become the deed of trust's record beneficiary which facilitates the efficient management of those loans. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1038-39 (9th Cir. 2011) (describing how loan owners contract with servicers and the servicers' role); Restatement (Third) of Prop.: Mortgages § 5.4 cmt. c ("Restatement") (discussing the common practice where investors in the secondary mortgage market designate their servicer to be assignee of the mortgage); Freddie Mac's Single-Family Seller/Servicer Guide (the "Guide") at 1101.2(a) (discussing Freddie Mac's relationship with servicers to manage the loans Freddie Mac purchases).<sup>1</sup> The Nevada Supreme Court has recognized the importance of these relationships by adopting the Restatement approach. *See In re Montierth*, 354 P.3d 648, 650-51 (Nev. 2015). *Montierth* holds that when a loan owner has an agency or contractual relationship with an entity who acts as the beneficiary of record of a deed of trust, the loan owner (though not the recorded beneficiary) maintains a secured property interest. *Id.*

Freddie Mac and its servicers also work with the Mortgage Electronic Registration Systems ("MERS"). The Ninth Circuit has noted that while "MERS, as the 'nominee' of the lender and of any assignee of the lender, is designated . . . as the 'beneficiary' . . . under the deed of trust," a "lender owns the home loan borrower's . . . promissory note." *In re Mortg. Elec. Registration Sys., Inc.*, 754 F.3d 772, 776 (9th Cir. 2014) (emphasis added). The "obvious advantage" of the system is that "it allows residential lenders to avoid the bother and expense of recording every change of ownership of promissory notes." *Id.* at 776-77 (emphasis added). The true owner of the loan is the lender, its successor, or its assignee—not MERS. *See Cervantes*, 656 F.3d at 1039.

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<sup>1</sup> The Guide is publicly available on Freddie Mac's website. Current sections of the Guide are attached as Exhibit 7 to Dean Meyer's declaration (attached hereto as Exhibit A). The parallel sections of the Guide in effect at the time of the HOA Sale are attached to Mr. Meyer's declaration as Exhibit 6.

An interactive version of the current Guide is publicly available on Freddie Mac's website at <https://guide.freddiemac.com/app/guide/>. A static, PDF copy of the current Guide is available at [https://guide.freddiemac.com/ci/okcsFattach/get/1002095\\_2](https://guide.freddiemac.com/ci/okcsFattach/get/1002095_2), and archived prior versions of the Guide are available at <https://guide.freddiemac.com/app/guide/segment/Seller%2FServicer%20Relationship>. While the cited sections of the Guide have been amended over the course of Freddie Mac's ownership of the loan at issue, none of these amendments have materially changed the relevant sections. The Court may take judicial notice of the Guide. *Daisy Trust*, 445 P.3d at 849 n.3.

## II. FHFA and Freddie Mac in Conservatorship

In July 2008, Congress passed the Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654 (codified as 12 U.S.C. § 4511 *et seq.*), which established FHFA as an independent federal agency with regulatory and oversight authority over Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. In September 2008, FHFA placed Fannie Mae and Freddie Mac (together, “the Enterprises”) into conservatorships “for the purpose of reorganizing, rehabilitating, or winding up [their] affairs.” 12 U.S.C. § 4617(a)(2). Accordingly, Congress granted FHFA an array of powers, privileges, and exemptions from otherwise applicable laws when acting as Conservator. Among these is the Federal Foreclosure Bar, which provides that “[n]o property” of FHFA conservatorships “shall be subject to . . . foreclosure . . . without the consent of [FHFA].” 12 U.S.C. § 4617(j)(3).

The Conservator has stated that it supports invocation of the Federal Foreclosure Bar by “authorized servicers” such as Nationstar in litigation such as this one: “FHFA supports the reliance on Title 12 United States Code Section 4617(j)(3) in litigation by authorized servicers of [Freddie Mac] to preclude the purported involuntary extinguishment of [Freddie Mac]’s interest by an HOA foreclosure sale.” [CITE], FHFA, Statement on Servicer Reliance on the Housing and Economic Recovery Act of 2008 in Foreclosures Involving Homeownership Associations (Aug. 28, 2015), <http://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Authorized-Enterprise-Servicers-Reliance.pdf>.

## III. Undisputed Facts Specific to this Case

### A. The Subject Property, Note, and Deed of Trust

1. A deed of trust listing Monique Guillory as the borrower (“Borrower”), First Magnus Financial Corporation as the lender (“Lender”), and MERS, as beneficiary solely as nominee for Lender and Lender’s successors and assigns, was executed on January 19, 2007, and recorded on January 25, 2007 (the “Deed of Trust”). **Ex. B**, deed of trust. The Deed of Trust granted Lender a security interest in real property known as 4641 Viareggio Court, in Las Vegas AA001464 (the “Property”) to secure the repayment of a loan in the original amount of \$258,400.00 to the Borrower (the promissory note and Deed of Trust together are the “Loan”). *Id.*

2. In March 2007, Freddie Mac purchased the Loan, thereby acquiring ownership of the Deed of Trust. **Ex. A**, ¶ 5(d)-(f), and its Ex. 1. Freddie Mac maintained its ownership interest in the Deed of Trust at the time of the HOA Sale on August 22, 2013. *Id.*
3. On February 11, 2011, MERS, as nominee for Lender and Lender’s successors and assigns, recorded an assignment of the Deed of Trust to Aurora Loan Services LLC (“Aurora”). *Id.* at ¶ 5(g); **Ex. C**, assignment.
4. On October 18, 2012, Aurora recorded an assignment of the Deed of Trust to Nationstar. **Ex. A**, ¶ 5(i); **Ex. D**, assignment.
5. At the time of the HOA Sale on August 22, 2013, Nationstar was the record beneficiary of the Deed of Trust and servicer of the Loan for Freddie Mac. (*Id.*; **Ex. A**, ¶ 5(j) and its Ex. 4.)

**B. Freddie Mac’s Contract with Its Servicers, Including Nationstar**

6. The relationship between Nationstar, as the servicer of the Loan, and Freddie Mac, as owner of the Loan, is governed by the Guide, a document central to Freddie Mac’s relationship with servicers nationwide. *See Ex. A* at its Ex. 7 (Guide at 1101.2(a) and Ex. 6 (Guide at 1.2). Among other things, the Guide provides that Freddie Mac’s servicers may act as record beneficiaries for the deeds of trust Freddie Mac owns and requires that servicers assign these deeds of trust to Freddie Mac upon Freddie Mac’s demand.

7. Specifically, the Guide provides that:

For each Mortgage purchased by Freddie Mac, the Seller and the Servicer agree that Freddie Mac may, at any time and without limitation, require the Seller or the Servicer, at the Seller’s or the Servicer’s expense, to make such endorsements to and assignments and recordings of any of the Mortgage documents so as to reflect the interests of Freddie Mac.

*Id.* at its Ex. 7 (Guide at 1301.10) and Ex. 6 (Guide at 6.6).

8. The Guide also provides that:

The Seller/Servicer is not required to prepare an assignment of the Security Instrument to Freddie Mac. However, *Freddie Mac may, at its sole discretion and at any time, require a Seller/Servicer, at the Seller/Servicer’s expense, to prepare, execute and/or record assignments of the Security Instrument to Freddie Mac.*

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*Id.* at its Ex. 7 (Guide at 6301.6) (emphasis added) and Ex. 6 (Guide at 22.14).

9. The Guide authorizes servicers to foreclose on the Deed of Trust on behalf of Freddie Mac. *See, e.g., id.* at its Ex. 7 (Guide at 8105.3, 9301.1, 9301.12) and Ex. 6 (Guide at 54.4, 66.1, 66.20, 66.17, 67.6).
10. Accordingly, the Guide also provides for a temporary transfer of possession of the note when necessary for servicing, including foreclosure. *See id.* at its Ex. 7 (Guide at 8107.1, 8107.2, 9301.11) and Ex. 6 (Guide at 18.4, 18.6, 66.2). When in “physical or constructive possession of a Note,” the Servicer must “follow prudent business practices” to ensure that the note is “identif[ied] as a Freddie Mac asset.” *Id.* at 8107.1(b). Furthermore, when transferring documents in a mortgage file, including a note, the servicer must ensure the receiver acknowledges that the note is “Freddie Mac’s property.” *Id.* at its Ex. 7 (Guide at 3302.5) and Ex. 6 (Guide at 52.7).
11. The Guide also includes chapters regarding how and when servicers should appear as parties to litigation involving Freddie Mac loans. *See id.* at its Ex. 7 (Guide at 9402.2 (“Routine and non-routine litigation”), 9501 (“Selection, Retention and Management of Law Firms for Freddie Mac Default Legal Matters.”)).
12. The Guide provides that:
- All documents in the Mortgage file, . . . and all other documents and records related to the Mortgage of whatever kind or description . . . will be, and will remain at all times, the property of Freddie Mac. All of these records and Mortgage data in the possession of the Servicer are retained by the Servicer in a custodial capacity only.
- Id.* at its Ex. 7 (Guide at 1201.9(a)) and Ex. 6 (Guide at 52.5).
13. The Guide provides that a prior servicer remains contractually-bound to Freddie Mac with respect to the Loan even after transferring its servicing rights to another servicer. *Id.* at its Ex. 7 (Guide at 7101.15(a) (“The Transferee Servicer’s assumption of [servicing responsibilities and liabilities] . . . does not release the Transferor Servicer . . . of their duties, obligations, representations, covenants, warranties, agreements and related liabilities with respect to the Mortgage[.]”)) and Ex. 6 (Guide at 56.15).
- AA001466
14. The Guide provides that a transferee servicer undertakes all responsibilities under the Guide. *See id.* at its Ex. 7 (Guide at 7101.15(c)) and Ex. 6 (Guide at 56.15).

1 15. Finally, the Guide provides that:

2 When a Transfer of Servicing occurs, the Transferor Servicer may not . . .  
3 further endorse the Note, but must prepare and complete assignments  
4 according to the [Guide's] requirements. . . .

5 To prepare and complete an assignment of a Security Instrument for a  
6 Mortgage related to a Subsequent Transfer of Servicing if that Mortgage is  
7 not registered with MERS, the Transferor Servicer must . . . [a]ssign the  
8 Security Instrument to the Transferee Servicer and record the assignment.

9 *Id.* at its Ex. 7 (Guide at 7101.6) and Ex. 6 (Guide at 56.7).

10 **C. The HOA Foreclosure Sale and Saticoy Bay's Purported Acquisition of the**  
11 **Property**

12 16. On July 30, 2007, Naples Community Homeowners Association (the "HOA"), by its  
13 foreclosure agent, Red Rock Financial Services ("Red Rock") initiated the non-judicial  
14 foreclosure by recording a Lien for Delinquent Assessments. **Ex. E.**

15 17. On November 9, 2007, a Release of Lien for Delinquent Assessments was recorded, which  
16 stated the Lien for Delinquent Assessments recorded on July 30, 2007, was released and  
17 satisfied. **Ex. F.**

18 18. On August 18, 2011, the HOA, by its foreclosure agent, Leach Johnson Song & Gruchow  
19 (the "HOA Trustee") initiated a second non-judicial foreclosure by recording a Notice of  
20 Delinquent Assessment Lien. **Ex. G.**

21 19. On January 24, 2012, the HOA Trustee, on behalf of the HOA, recorded a Notice of Default  
22 and Election to Sell against the Property. **Ex. H.**

23 20. On July 30, 2012, the HOA Trustee, on behalf of the HOA, recorded a Notice of Foreclosure  
24 Sale against the Property. **Ex. I.**

25 21. On September 6, 2013, a Foreclosure Deed was recorded against the Property. **Ex. J.** The  
26 Foreclosure Deed states that the Property was sold in an HOA foreclosure sale on August 22,  
27 2013, to Saticoy Bay with a purchase price of \$5,563.00.

28 22. At no time did the Conservator consent to the HOA Sale extinguishing or foreclosing Freddie  
Mac's interest in the Property. **Ex. K** (FHFA's Statement on HOA Super-Priority Lien  
AA001467  
Foreclosures (Apr. 21, 2015), [www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-HOA-Super-Priority-Lien-Foreclosures.aspx](http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-HOA-Super-Priority-Lien-Foreclosures.aspx)).

1           **D.     Procedural History**

2           23. Saticoy Bay originally filed a complaint in this matter on September 25, 2013. *See* Compl.

3           This Court entered summary judgment in favor of Saticoy Bay on December 6, 2018. *See*  
4           **Ex. L.**

5           24. On April 10, 2020, the Court of Appeals reversed and remanded this Court’s decision. **Ex.**

6           **M.** The Court of Appeals noted that, because this Court “did not have the benefit of the  
7           [*Daisy Trust* decision]” at the time of its December 6, 2018 Order, this Court “erred in  
8           concluding that Freddie Mac’s interest needed to be recorded in order for the Federal  
9           Foreclosure Bar to apply.” *Id.* at 2. Accordingly, the Court of Appeals vacated and  
10          remanded this matter to this Court. *Id.* at 3.

11          25. On October 22, 2020, at a status check, this Court ordered Nationstar to file a motion for  
12          summary judgment on or before November 9, 2020.

13          26. On November 2, 2020, this Court entered a Minute Order denying Saticoy Bay’s Renewed  
14          Motion for Summary Judgment.

15                           **LEGAL STANDARD**

16          “Summary judgment is appropriate . . . when the pleadings, depositions, answers to  
17          interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that  
18          no genuine issue of material fact exists, and that the moving party is entitled to judgment as a matter  
19          of law.” *Wood v. Safeway, Inc.*, 121 P.3d 1026, 1031 (Nev. 2005). “While the pleadings and other  
20          evidence must be construed in the light most favorable to the nonmoving party, that party has the  
21          burden to ‘do more than simply show that there is some metaphysical doubt’ as to the operative facts  
22          to defeat a motion for summary judgment.” *Id.* at 1031 (quoting *Matsushita Elec. Indus. Co. v.*  
23          *Zenith Radio*, 475 U.S. 574, 586 (1986)). The governing law determines which “factual disputes are  
24          material and will preclude summary judgment; other factual disputes are irrelevant.” *Id.*  
25          Accordingly, Nevada courts follow the federal summary judgment standard, not the “slightest doubt”  
26          standard previously applicable before *Wood*. *Id.* at 1031, 1037.

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ARGUMENT**I. The Federal Foreclosure Bar Defeats Saticoy Bay’s Claim to an Interest in the Property Free and Clear of the Deed of Trust**

The law is settled: the Federal Foreclosure Bar preempts the State Foreclosure Statute. As the Nevada Supreme Court has held, “the [State Foreclosure Statute] is in direct conflict with Congress’s clear and manifest goal to protect Freddie Mac’s property interest while under the FHFA’s conservatorship from threats arising from state foreclosure law. As the two statutes conflict, the Federal Foreclosure Bar implicitly preempts [the State Foreclosure Statute] to the extent that a foreclosure sale extinguishes the deed of trust.” *Christine View*, 417 P.3d at 367; *see also Daisy Trust*, 445 P.3d at 847. The Federal Foreclosure Bar necessarily protects Freddie Mac’s Deed of Trust because the Conservator has succeeded by law to all of Freddie Mac’s “rights, titles, powers, and privileges,” 12 U.S.C. § 4617(b)(2)(A)(i). Accordingly, “[Freddie Mac]’s property interest effectively becomes the FHFA’s while the conservatorship exists.” *Christine View*, 417 P.3d at 367 (citing 12 U.S.C. § 4617(b)(2)(A)(i)).

The Ninth Circuit has held the same. *See, e.g., Berezovsky*, 869 F.3d at 930 (“[T]he Federal Foreclosure Bar implicitly demonstrates a clear intent to preempt [the State Foreclosure Statute].”); *FHFA v. SFR*, 893 F.3d at 1146-47 (following *Berezovsky*). Moreover, numerous courts in the U.S. District Court of Nevada<sup>2</sup> and Nevada state courts<sup>3</sup> have followed the Ninth Circuit and Nevada

<sup>2</sup> *See, e.g., Skylights v. Byron*, 112 F. Supp. 3d 1145, 1153 (D. Nev. 2015); *Opportunity Homes, LLC v. Freddie Mac*, 169 F. Supp. 3d 1073 (D. Nev. 2016); *Saticoy Bay, LLC Series 1702 Empire Mine v. Fannie Mae*, No. 2:14-CV-01975-KJD-NJK, 2015 WL 5709484 (D. Nev. Sept. 29, 2015); *FHFA v. SFR Investments Pool 1, LLC*, No. 2:15-cv-1338-GMN-CWH, 2016 WL 2350121 (D. Nev. May 2, 2016); *FHFA v. Nevada New Builds, LLC*, No. 2:16-cv-1188-GMN-CWH, 2017 WL 888480 (D. Nev. Mar. 6, 2017); *Springland Vill. Homeowners Ass’n v. Pearman*, No. 3:16-cv-00423-MMD-WGC, 2018 WL 357853 (D. Nev. Jan. 10, 2018); *MRT Assets LLC v. Nationstar Mortg., LLC*, No. 2:17-cv-0070-JCM-CWH, 2018 WL 1245501 (D. Nev. Mar. 9, 2018); *Nationstar Mortg., LLC v. Tow Props. LLC II*, No. 2:17-cv-01770-APG-VCF, 2018 WL 2014064 (D. Nev. Apr. 27, 2018); *Fannie Mae v. Kree, LLC*, No. 3:17-cv-730-LRH-WGC, 2018 WL 2697406 (D. Nev. June 5, 2018); *Ditech Fin. LLC v. Paradise Springs One Homeowners Ass’n*, No. 2:16-cv-2900-APG-GWF, 2018 WL 3429676 (D. Nev. July 16, 2018); *Ditech Fin. LLC v. T-Shack, Inc.*, 2:16-cv-02434-RFB-DJA, 2020 WL 1549585 (D. Nev. Mar. 31, 2020).

<sup>3</sup> *See, e.g., Order, RJRN Holdings, LLC v. Green Tree Servicing LLC*, A-14-704682-C (Nev. Dist. Ct. July 21, 2017); *Hampton & Hampton Collections, LLC v. Pan*, No. 14-A-706519-C, 2017 WL 5660707 (Nev. Dist. Ct. Oct. 6, 2017); *Nationstar Mortg., LLC v. Kincer*, No. 14-A-698443-C, 2017 WL 6940444 (Nev. Dist. Ct. Nov. 27, 2017); *Nevada New Builds, LLC v. JPMorgan Chase Bank*, No. 13-A-690954, 2017 WL 7058170 (Nev. Dist. Ct. Dec. 14, 2017); *J&K USA, Inc. v. BAC Home Loans Servicing, LP*, No. 14-A-702573, 2018 WL 1612075 (Nev. Dist. Ct. Feb. 27, 2018); *Saticoy Bay 10021 Via Toro v. Chase*, A-14-

Supreme Court precedent to resolve claims legally identical and factually similar to those in this case in favor of the Enterprises and their servicers.

Given the weight of authority, Saticoy Bay cannot challenge either the preemptive effect of the Federal Foreclosure Bar or that Freddie Mac’s loan ownership is a property interest the Federal Foreclosure Bar protects. Thus, the only issues for the Court to decide are whether (1) Freddie Mac had a property interest at the time of the HOA Sale, (2) FHFA consented to extinguish Freddie Mac’s property interest, and (3) Nationstar can assert the protections of the Federal Foreclosure Bar in this case. As explained below, Freddie Mac had a protected property interest that FHFA did not consent to extinguish, and Nationstar can raise the Federal Foreclosure Bar here because it was Freddie Mac’s contractually authorized representative and remains contractually bound to Freddie Mac. The Federal Foreclosure Bar, therefore, protected Freddie Mac’s property interest from extinguishment by the HOA Sale.

#### A. Freddie Mac Had a Property Interest at the Time of the HOA Sale

##### 1. Uncontradicted Evidence Confirms Freddie Mac’s Property Interest

The Nevada Supreme Court has confirmed that a proffer of evidence similar to that submitted here—database records, an employee declaration, and relevant Guide provisions—“sufficiently demonstrated that Freddie Mac owned the loan on the date of the foreclosure sale” for the purpose of a motion for summary judgment. *Daisy Trust*, 445 P.3d at 851; *JPMorgan Chase Bank, N.A. v. Guberland LLC-Series 2* (“*Guberland IF*”), No. 73196, 2019 WL 2339537, at \*1-2 (Nev. May 31, 2019) (unpublished disposition) (finding Freddie Mac’s business records and declaration admissible under NRS 51.135 and sufficient to establish Freddie Mac’s property interest); *CitiMortgage, Inc. v. SFR Invs. Pool 1, LLC*, No. 70237, 2019 WL 289690, at \*1 n.1 (Nev. Jan. 18, 2019) (unpublished

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694140-C, 2018 WL 1995672 (Nev. Dist. Ct. March 15, 2018); *NV Eagles, LLC v. BAC Home Loan Servicing*, No. A-16-733337, 2018 WL 1989741 (Nev. Dist. Ct. Mar. 15, 2018); *Renfroe v. Bank of America, N.A.*, No. 14-A-701932, 2018 WL 1995668 (Nev. Dist. Ct. Mar. 21, 2018); *Gutierrez v. SFR Investments Pool 1, LLC*, No. 13-A-684715-C, 2018 WL 2336188 (Nev. Dist. Ct. Apr. 11, 2018); *TRP Fund IV, LLC v. Fannie Mae*, No. A-16-735893, 2018 WL 2338239 (Nev. Dist. Ct. Apr. 13, 2018); *SFR v. First Horizon Home Loans*, No. A-13-685826-C, 2018 WL 3702059 (Nev. Dist. Ct. Jun. 14, 2018); *Alessi & Koenig, LLC v. Storm*, No. A-14-699883-C, 2018 WL 3702051 (Nev. Dist. Ct. Jun. 27, 2018); *Emieli Inv., LLC v. Green Tree Servicing, Inc.*, Nos. A-14-703336-C, A-14-706647-C, 2019 WL 6523045 (Nev. Dist. Ct. Oct. 28, 2019). Nationstar does not cite these cases as precedential authority but rather, consistent with Nev. R. App. P. 36(c)(3), cites them for their persuasive value.



1 disposition) (holding that Fannie Mae’s business records, supported by employee testimony,  
2 “establish[ed] that Fannie Mae owned the loan at the time of the HOA foreclosure sale”); *M&T Bank*  
3 *v. Wild Calla Street Tr.*, No. 74715, 2019 WL 1423107, at \*2 (Nev. Mar. 28, 2019) (unpublished  
4 disposition) (reversing a district court decision awarding summary judgment to HOA sale purchaser  
5 and holding that the Federal Foreclosure Bar applied to protect Freddie Mac’s property interest,  
6 which had been proven by an employee declaration, internal database business records, and  
7 provisions of the Enterprise’s Guide).

8 Similarly, the Ninth Circuit has repeatedly confirmed that Freddie Mac’s property interest  
9 may be established in a motion for summary judgment by Freddie Mac’s business records and a  
10 declaration from a Freddie Mac employee explaining that the records state when Freddie Mac owned  
11 the Loan. *See, e.g., FHFA v. SFR*, 893 F.3d 1136; *Berezovsky*, 869 F.3d at 933.<sup>4</sup>

12 Here, Nationstar has submitted materially identical evidence to that which the Nevada  
13 Supreme Court and Ninth Circuit have confirmed is sufficient to prove the Enterprises’ ownership  
14 interests. As explained by Freddie Mac’s employee, Dean Meyer, Freddie Mac’s business records  
15 show that Freddie Mac acquired ownership of the Loan in March 2007 and continued to own the  
16 Loan at the time of the HOA Sale in August 2013. **Ex. A**, ¶ 5 and its Exs. 1 and 2. Freddie Mac’s  
17 acquisition date and ownership of the Loan are amply supported by the business-records data derived  
18 from the MIDAS database that Freddie Mac uses in the course of its everyday business to manage  
19 and track millions of loans that it acquires and owns nationwide. *Id.* The mortgage payment history,  
20 among other details in Freddie Mac’s records, shows that Nationstar continued to report monthly to  
21 Freddie Mac about the Loan in August 2013 and that no event ending Freddie Mac’s ownership of  
22 the Loan occurred prior to that date. *Id.* at ¶ 5(k) and its Ex. 5. The business records and declaration  
23 also show that Nationstar was Freddie Mac’s servicer for the Loan at the time of the HOA Sale. The  
24 declaration explains how the business records identify the servicer for the Loan and how one can  
25 determine that Nationstar was the servicer at the time of the HOA Sale in August 2013. *Id.* at ¶ 5(j)  
26 and its Exs. 1, 3 and 4.

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27 \_\_\_\_\_  
28 <sup>4</sup> This Ninth Circuit precedent should be highly persuasive here, as federal courts and Nevada courts  
have adopted the same standard for what evidence is sufficient for summary judgment. *See Wood*, 121 P.3d  
at 1031 (citing *Matsushita*, 475 U.S. 574, for Nevada’s standard for summary judgment).

Under the applicable rules of evidence, business records are, by their nature, admissible to prove the truth of their contents when introduced by a qualified witness, as they are here. *See* NRS 51.135; Fed. R. Evid. 803 (advisory committee’s note to 1972 proposed rules) (noting that business records, including electronic database records, have “unusual reliability”). The Nevada Supreme Court has held that Enterprise business records are admissible and sufficient to support the Enterprises’ property interests. *See Daisy Trust*, 445 P.3d at 850-51; *Guberland II*, 2019 WL 2339537, at \*1-2; *CitiMortgage v. SFR*, 2019 WL 289690, at \*2; *M&T Bank*, 2019 WL 1423107, at \*2 & n.4. The Ninth Circuit has similarly found Enterprise “database printouts” sufficient to support a “valid and enforceable” property interest under Nevada law. *Berezovsky*, 869 F.3d at 932 & n.8; *see also, e.g., Cornwall Glen*, 794 F. App’x at 668 (“Fannie Mae has presented admissible evidence, specifically business records and an employee declaration authenticating those records, that it had a valid interest in the property at issue.”). The same analysis applies to the evidence Nationstar has submitted here. In fact, this Court has already found that these business records are admissible in this case. *See* Minute Order at 3 (“Thus, the Freddie Mac database printouts are admissible.”).

## 2. Freddie Mac Owned the Note and Deed of Trust Under Nevada Law

Under Nevada law, when Freddie Mac purchased the Loan in March 2007, Freddie Mac acquired ownership of the note and Deed of Trust. Under Nevada law, Nationstar’s status as record beneficiary of the Deed of Trust at the time of the HOA Sale does not undermine Freddie Mac’s ownership. *See Daisy Trust*, 445 P.3d at 849. Indeed, in *Montierth*, the Nevada Supreme Court explained that where the record beneficiary of the deed of trust has contractual or agency authority to foreclose on the note owner’s behalf, the note owner maintains a property interest in the collateral. *Montierth*, 354 P.3d at 650-51. In that case, MERS (as nominee for the original lender and its successors and assigns) served as record beneficiary of a deed of trust, while Deutsche Bank had acquired the related promissory note from the original lender. *Id.* at 649. The Nevada Supreme Court concluded that the relationship between MERS and Deutsche Bank, wherein MERS had authority to foreclose on Deutsche Bank’s behalf, ensured that Deutsche Bank remained a “secured creditor” with a “fully-secured, first priority deed” that could be enforced. *Id.* at 650-51. Deutsche

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1 Bank, like Freddie Mac here, accordingly retained a property interest while another entity was  
2 beneficiary of record of the deed of trust.

3 The Nevada Supreme Court has since reaffirmed *Montierth*'s holding and applied it in the  
4 context of loan owners and their servicers in numerous cases involving materially the same facts and  
5 legal issues as here. In *Daisy Trust*, the *en banc* Nevada Supreme Court held in a published decision  
6 that Freddie Mac had a property interest where its contractually authorized servicer appeared as  
7 record beneficiary of the deed of trust on the date of an HOA foreclosure sale. 445 P.3d at 849. The  
8 Nevada Supreme Court reaffirmed *Montierth* and explicitly rejected any notion that an Enterprise  
9 must appear in the land records in order for the Enterprise to have a property interest under Nevada  
10 law. *Id.*

11 In *Guberland II*, the Nevada Supreme Court acknowledged that it had previously recognized  
12 that when there is a contractual relationship between the note holder and the mortgage holder, "the  
13 loan holder maintains secured status under the deed of trust even when not named as the deed's  
14 record beneficiary." 2019 WL 2339537, at \*1. In *CitiMortgage v. SFR*, the Nevada Supreme Court  
15 held that "[a servicer's] status as the recorded deed of trust beneficiary does not create a question of  
16 material fact regarding whether [the Enterprise] owns the subject loan, as this court has recognized  
17 that such an arrangement is acceptable and common." 2019 WL 289690, at \*2. Indeed, under  
18 Nevada law, "the record beneficiary need not be the actual owner of the loan." *CitiMortgage, Inc. v.*  
19 *TRP Fund VI, LLC*, No. 71318, 2019 WL 1245886, at \*1 (Nev. Mar. 14, 2019) (unpublished  
20 disposition); *accord SFR v. Fannie Mae*, 2020 WL 1328987, at \*1 ("Nevada law does not require  
21 Freddie Mac . . . to publicly record its ownership interest in the subject loan.").

22 The Ninth Circuit, in addition to various state and federal trial courts, has correctly applied  
23 *Montierth* and the Restatement, and held that an Enterprise need not have been beneficiary of record  
24 of a deed of trust in order to have a protected property interest. *See, e.g., FHFA v. SFR*, 893 F.3d at  
25 1149-50; *Berezovsky*, 869 F.3d at 932; *Saticoy Bay, LLC v. Flagstar Bank, FSB*, 699 F. App'x 658,  
26 658-59 (9th Cir. 2017) (unpublished disposition). The Ninth Circuit has rejected any argument that,  
27 under Nevada law, a loan owner's property interest depends on its name appearing in the public  
28 property records: "[a]lthough the recorded deed of trust here omitted Freddie Mac's name, Freddie

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Mac’s property interest is valid and enforceable under Nevada law” because Freddie Mac owned the note and its servicer was beneficiary of record of the deed of trust. *Berezovsky*, 869 F.3d at 932; *see also FHFA v. SFR*, 893 F.3d at 1149-50.

Given this precedent, this Court has already made the same findings and conclusions in this case. In its November 2, 2020 Minute Order, this Court noted that “Nevada’s recording statutes do not require that Freddie Mac be identified as the beneficiary on the publicly recorded deed of trust to establish its ownership interest in the subject loan.” Minute Order at 1. Relying on these findings, the Court should find that Freddie Mac is the owner of the Loan.

### 3. The Guide Confirms that Freddie Mac Retained Ownership of the Deed of Trust While Nationstar Was Record Beneficiary

The Guide serves as a central document governing the contractual relationship between Freddie Mac and its servicers nationwide, including Nationstar. *See Ex. A* at its Ex. 7 (Guide at 1101.2(a)). The provisions of the Guide demonstrate that Freddie Mac and its loan servicers maintain the type of relationship described in the Restatement and *Montierth* that secures Freddie Mac’s ownership interest in the Deed of Trust. *See Montierth*, 354 asP.3d at 651 (looking to whether a loan owner can “compel an assignment of the deed of trust”); *Daisy Trust*, 445 P.3d at 849 & n.3 (“[C]onsistent with *Montierth*, we note that the Freddie Mac [servicing guide], which governs Freddie Mac’s relationship with its loan servicers, contemplates Freddie Mac being the note holder while its loan servicer remains the recorded deed of trust beneficiary”).

The Guide provides that “Freddie Mac may, at any time and without limitation, require the Seller or the Servicer . . . to make such . . . assignments and recordings of any of the Mortgage documents so as to reflect the interests of Freddie Mac.” *Id.* at its Ex. 7, (Guide at 1301.10, 6301.6 (similar)). The Guide also authorizes servicers to protect the interests of Freddie Mac in the Loan, including in foreclosure proceedings. *See id.* at its Ex. 7, (Guide at 8107.1, 8107.2, 9301.11). Nevertheless, the Guide is clear that ownership always lies with Freddie Mac. For example, “[a]ll documents in the Mortgage file, . . . and all other documents and records related to the Mortgage of whatever kind or description . . . will be, and will remain at all times, the property of Freddie Mac.” *Id.* at its Ex. 7 (Guide at 1201.9, 3302.5, 8107.1(b)).

Thus, the fact that Freddie Mac’s servicer, Nationstar, was the beneficiary of record of the Deed of Trust at the time of the HOA Sale does not negate the fact that Freddie Mac remained the owner of the note and the Deed of Trust at that time. Accordingly, the Federal Foreclosure Bar, which protects Freddie Mac’s property interests, protected the Deed of Trust from extinguishment, and Freddie Mac continued to own both the note and Deed of Trust after the HOA Sale.

**B. FHFA Did Not Consent to the Extinguishment of the Deed of Trust**

While it is not Nationstar’s burden to establish this fact, it is undisputed that FHFA has not consented to extinguish Freddie Mac’s property interest in this case. Because Freddie Mac had a protected property interest at the time of the HOA foreclosure sale, the Federal Foreclosure Bar precluded Nationstar or its predecessor in interest from acquiring free-and-clear title unless it obtained FHFA’s consent to extinguish Freddie Mac’s interest. Indeed, “[t]he Federal Foreclosure Bar cloaks the FHFA’s ‘property with Congressional protection unless or until the Agency affirmatively relinquishes it.’” *Christine View*, 417 P.3d at 368 (quoting *Berezovsky*, 869 F.3d at 929); *see, e.g., Zaisan Enters. LLC v. Green Tree Servicing LLC*, No. 75958, 2019 WL 4740526, at \*1 (Nev. Sept. 26, 2019) (unpublished disposition); *M&T Bank.*, 2019 WL 1423107, at \*2.

Saticoy Bay cannot show that it received such consent. To the contrary, the Conservator has publicly announced that it “has not consented, and will not consent in the future, to the foreclosure or other extinguishment of any Fannie Mae or Freddie Mac lien or other property interest in connection with HOA foreclosures of super-priority liens.” *See Ex. K.*<sup>5</sup> Thus, “it is clear that FHFA did not consent to the extinguishment of [the Enterprise’s] property interest through the HOA’s foreclosure sale.” *Alessi & Koenig, LLC v. Dolan*, No. 2:15-cv-00805, 2017 WL 773872, at \*3 (D. Nev. Feb. 27, 2017) (citing and relying on cases in which FHFA’s statement was sufficient to show FHFA’s lack of consent).

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<sup>5</sup> This public statement on a government website is subject to judicial notice. *See Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998-99 (9th Cir. 2010).

1                   **C.      Nationstar May Assert the Federal Foreclosure Bar to Protect Its Interest and**  
2                   **Freddie Mac's Interest in the Deed of Trust**

3                   The Nevada Supreme Court has held that “the servicer of a loan owned by [an Enterprise]  
4 may argue that the Federal Foreclosure Bar preempts NRS 116.3116, and that neither [the  
5 Enterprise] nor the FHFA need be joined as a party.” *Nationstar Mortg., LLC v. SFR Invs. Pool 1,*  
6 *LLC*, 396 P.3d 754, 758 (2017). It recently confirmed that holding in *Daisy Trust*. 445 P.3d at 847  
7 (citing *Nationstar v. SFR* and confirming that “a loan servicer has standing to assert the Federal  
8 Foreclosure Bar on behalf of Freddie Mac or Fannie Mae”). Furthermore, the Court in *Daisy Trust*  
9 held that “evidence that [the servicer] was Freddie Mac’s loan servicer, combined with the  
10 authorizations in the Guide that are generally applicable to Freddie Mac’s loan servicers . . . [is]  
11 sufficient to show that [the servicer] was in fact Freddie Mac’s loan servicer with authority to assert  
12 the Federal Foreclosure Bar on Freddie Mac’s behalf.” 445 P.3d at 850. Additional evidence, such  
13 as “the actual servicing contract,” is not necessary. *Id.* The Ninth Circuit found *Nationstar*  
14 persuasive and similarly held that servicers may raise the Federal Foreclosure Bar to defend property  
15 interests of Fannie Mae and Freddie Mac in litigation. *Flagstar*, 699 F. App’x at 658-59.

16                   The evidence in this case confirms that Freddie Mac is the owner of the Loan and that  
17 Nationstar was Freddie Mac’s contractually authorized servicer at the time of the HOA Sale. *Supra*  
18 at 11-16. Pursuant to its contract with Freddie Mac, as Freddie Mac’s former servicer, Nationstar  
19 has the authority to represent Freddie Mac’s interests in litigation with respect to the loans it has  
20 serviced. *See, e.g., Ex. A* at its Ex. 7 (Guide at 8105.3, 8107.2(b), 9301.15(b), 9301.12, 9401.1,  
21 9402.2, Chapter 9501). Furthermore, the Conservator has publicly supported invocation of the  
22 Federal Foreclosure Bar by servicers in litigation such as this one. *See Ex K.* Saticoy Bay can  
23 present no contrary evidence to create a genuine dispute about these facts. Nationstar may invoke  
24 the Federal Foreclosure Bar in this litigation without joining Freddie Mac or FHFA as a party.

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**CONCLUSION**

For these reasons, the Court should grant Nationstar's motion for summary judgment and enter a declaration that Saticoy Bay's interest in the Property, if any, is subject to the Deed of Trust.

DATED this 9<sup>th</sup> day of November, 2020.

**AKERMAN LLP**

/s/ Melanie D. Morgan

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 9<sup>th</sup> day of November, 2020, I caused to be served a true and correct copy of the foregoing **NATIONSTAR MORTGAGE LLC'S SUMMARY JUDGMENT MOTION**, in the following manner:

**(ELECTRONIC SERVICE)** Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

**LAW OFFICES OF MICHAEL F. BOHN, ESQ., LTD.**

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I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Carla Llarena

An employee of AKERMAN LLP

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# **EXHIBIT A**

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12 *Attorneys for Defendant/Counter-Claimant Nationstar Mortgage, LLC*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 SATICOY BAY LLC SERIES 4641  
16 VIAREGGIO CT,

17 Plaintiff,

18 v.

19 NATIONSTAR MORTGAGE, LLC; COOPER  
20 CASTLE LAW FIRM, LLP; AND MONIQUE  
21 GUILLORY,

22 Defendants.

23 NATIONSTAR MORTGAGE, LLC,

24 Counterclaimant,

25 vs.

26 SATICOY BAY LLC SERIES 4641  
27 VIAREGGIO CT; NAPLES COMMUNITY  
28 HOMEOWNERS ASSOCIATION; LEACH  
JOHNSON SONG & GRUCHOW; DOES I  
through X; and ROE CORPORATIONS I  
through X, inclusive,

Counterdefendants.

Case No.: A-13-689240-C  
Dept. No.: V

**DECLARATION OF FEDERAL HOME  
LOAN MORTGAGE CORPORATION  
IN SUPPORT OF  
DEFENDANT/COUNTERCLAIMANT  
NATIONSTAR MORTGAGE, LLC'S  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT**

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1 I, Dean Meyer, under penalty of perjury, declare as follows:

2 1. My name is Dean Meyer. I have personal knowledge of and am competent to  
3 testify as to the matters stated herein by virtue of my position as Director, Loss Mitigation for  
4 Federal Home Loan Mortgage Corporation ("Freddie Mac"), a corporation organized and  
5 existing under the laws of the United States.  
6

7 2. As Director, Loss Mitigation for Freddie Mac, I am familiar with certain Freddie  
8 Mac systems and databases that contain data regarding loans acquired and owned by Freddie  
9 Mac. The systems and databases include Freddie Mac's Loan Status Manager and MIDAS  
10 system, which includes and stores information concerning Freddie Mac's servicers and the  
11 purchase of loans. I am also familiar with Freddie Mac's Single-Family Seller/Servicer Guide  
12 (the "Guide"). This declaration is based upon my review of Freddie Mac's systems, databases  
13 containing loan information and data, and the Guide.  
14

15 3. Entries in Freddie Mac's systems and corresponding databases are made at or near  
16 the time of the events recorded by, or from information transmitted by, persons with knowledge.  
17 Freddie Mac's systems and databases are maintained and kept in the course of Freddie Mac's  
18 regularly conducted business activity, and it is the regular practice of Freddie Mac to keep and  
19 maintain information regarding loans owned by Freddie Mac in Freddie Mac's databases.  
20 Freddie Mac's systems and databases consist of records that were made and kept by Freddie Mac  
21 in the course of its regularly conducted activities pursuant to its regular business practice of  
22 creating such records. These systems and databases are Freddie Mac's business records.  
23

24 4. I have reviewed Nationstar Mortgage, LLC's ("Nationstar") Opposition to  
25 Plaintiff's Motion for Summary Judgment and accompanying exhibits (collectively, the  
26 "Documents"). I have also reviewed Freddie Mac's systems and corresponding databases,  
27  
28

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1 including the documents referenced below, which are print-outs from Freddie Mac systems  
2 reflecting the contents of those databases, as well as portions of the Guide.

3 5. Freddie Mac's systems, corresponding databases, and the Documents reflect the  
4 following:

- 5 a. On or about January 17, 2007, Monique Guillory (the "Borrower")  
6 obtained a loan from First Magnus Financial Corporation ("Lender") in  
7 the amount of \$258,400. As part of the loan, the Borrower executed a  
8 note dated January 17, 2007 in favor of Lender (the "Note"). The Note is  
9 secured by real property located at 4641 Viareggio Court, Las Vegas,  
10 Nevada 89147 (the "Property").  
11  
12 b. Borrower executed a deed of trust (the "Deed of Trust", and collectively  
13 with the Note and any other documents executed by the Borrower in  
14 connection with the loan, the "Loan") dated January 17, 2007 in  
15 connection with the Loan, which was recorded on or about January 25,  
16 2007.  
17  
18 c. Mortgage Electronic Registration Systems, Inc. ("MERS") was  
19 beneficiary under the Deed of Trust in a nominee capacity for the Lender  
20 and the Lender's successors and assigns.  
21  
22 d. As indicated by the "Funding Date" appearing midway down on the  
23 second column of Page 1 of 2 of the print-out from Freddie Mac's MIDAS  
24 system pertaining to Freddie Mac's purchase of the Loan, Freddie Mac  
25 acquired ownership of the Loan, which specifically includes the Note and  
26 the Deed of Trust, on or about March 29, 2007 and has owned it ever  
27  
28

1 since. A true and correct copy of the print-out from Freddie Mac's  
2 MIDAS system pertaining to Freddie Mac's purchase of the Loan is  
3 attached hereto as Exhibit 1. The Guide defines "Funding Date" as the  
4 date when Freddie Mac disburses payment to the seller for a Loan Freddie  
5 Mac purchased.

6  
7 e. As indicated by the "Seller Nbr 623509" appearing near the top of the first  
8 column of Page 1 of 2 of the print-out from Freddie Mac's MIDAS system  
9 attached hereto as Exhibit 1, which identifies the entity that sold Freddie  
10 Mac the loan by "Seller Number," Lehman Brothers Holdings, Inc.  
11 ("LBHI") sold the Loan to Freddie Mac. A true and correct copy of the  
12 print-out from Freddie Mac's MIDAS system identifying LBHI by Seller  
13 Number 623509 is attached hereto as Exhibit 2.

14  
15 f. The "Part. Pct." or "Participation Percentage" appearing above the  
16 Funding Date on Page 1 of 2 of the print-out from Freddie Mac's MIDAS  
17 system attached hereto as Exhibit 1, reflects "1.0," which means that  
18 Freddie Mac owns 100% of the Loan. If the Participation Percentage was  
19 anything less than 100%, then a number less than 1.0 would appear on the  
20 print-out from Freddie Mac's MIDAS system.

21  
22 g. On February 11, 2011, a Corporate Assignment of Deed of Trust was  
23 recorded, whereby MERS, in its nominee capacity for Lender and  
24 Lender's successors and assigns, assigned the Deed of Trust to Aurora  
25 Loan Services LLC ("Aurora").  
26

27 AA001483  
28

- 1           h.     On August 30, 2012, a Corporate Assignment of Deed of Trust was  
2                 recorded, whereby MERS, in its nominee capacity for Lender and  
3                 Lender's successors and assigns, assigned the Deed of Trust to Nationstar.  
4           i.     On October 18, 2012, an Assignment of Deed of Trust was recorded,  
5                 whereby Nationstar, as attorney in fact for Aurora, assigned its interest in  
6                 the Deed of Trust to Nationstar.  
7  
8           j.     Nationstar began servicing the Loan, pursuant to the Guide, on behalf of  
9                 Freddie Mac on June 16, 2012. A true and correct copy of the print-out  
10                from Freddie Mac's Loan Status Manager is attached hereto as Exhibit 3,  
11                which reflects that LBHI serviced the Loan, pursuant to the Guide, from  
12                March 29, 2007 when Freddie Mac purchased the Loan until June 16,  
13                2012 when servicing of the Loan was transferred from LBHI to  
14                Nationstar. If there had been any other change in servicer after June 16,  
15                2012, the change would have been entered into and would be reflected in  
16                Freddie Mac's Loan Status Manager. Consistent with the fact that no  
17                change in servicer occurred after servicing was transferred to Nationstar  
18                on June 16, 2012, no such information appears in Loan Status Manager,  
19                which evidences the fact that the Loan has been serviced by Nationstar  
20                since June 16, 2012. Additionally, as indicated by the "Servicer Nbr  
21                157386" appearing near the top of the first column of Page 1 of 2 of the  
22                print-out from Freddie Mac's MIDAS system attached hereto as Exhibit  
23                1, which identifies the current servicer by "Servicer Number," Nationstar  
24                is currently servicing the Loan, pursuant to ~~AA001484~~ AA001484, on behalf of Freddie  
25  
26  
27  
28

1 Mac. A true and correct copy of the print-out from Freddie Mac's MIDAS  
2 system identifying Nationstar by Servicer Number 157386 is attached  
3 hereto as Exhibit 4.

4 k. A true and correct copy of the print-out from Freddie Mac's Loan Status  
5 Manager is attached hereto as Exhibit 5, which reflects the mortgage  
6 payment history (the "Mortgage Payment History") for the Loan. The  
7 "Date Reported" in the second column of Exhibit 5 indicates the date that  
8 Freddie Mac's servicer reported information on the Loan to Freddie Mac.  
9 The Mortgage Payment History reflects that the servicer provided Freddie  
10 Mac with reports on the Loan, pursuant to the Guide which requires  
11 servicers to report regularly to Freddie Mac on Freddie Mac-owned loans,  
12 on a monthly basis from April 2007 through February 2017, consistent  
13 with when the report was generated. The servicer would not send regular  
14 monthly reports on the Loan to Freddie Mac if Freddie Mac did not own  
15 the Loan  
16  
17  
18

19 l. The Guide, a publicly accessible document found at  
20 [www.freddiemac.com/singlefamily/guide](http://www.freddiemac.com/singlefamily/guide), serves as a central document  
21 governing the contractual relationship between Freddie Mac and its  
22 servicers nationwide, including LBHI and Nationstar. Archived prior  
23 versions of the Guide are available at  
24 [www.freddiemac.com/singlefamily/guide/bulletins/snapshot.html](http://www.freddiemac.com/singlefamily/guide/bulletins/snapshot.html).  
25 Attached hereto as Exhibit 6 are copies of relevant sections of the Guide  
26  
27  
28

AA001485

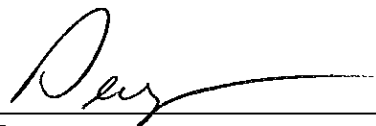
1 that were in effect on August 22, 2013. Copies of the current version of  
2 each of the relevant sections of the Guide are attached hereto as Exhibit 7.

3 m. At the time Freddie Mac acquired the Loan and at all times thereafter, the  
4 Guide was in effect and governed the relationship between Freddie Mac,  
5 on the one hand, and LBHI and Nationstar, on the other, with respect to  
6 the Loan.  
7

8 n. Since it acquired the Loan, Freddie Mac has not sold the Loan and has  
9 never authorized MERS, LBHI, Aurora, or Nationstar to convey the Loan  
10 to any other entity.  
11

12 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing  
13 is true and correct.

14 Executed on Dec 4, 2017.  
15

16   
17 Dean Meyer  
18 Director, Loss Mitigation  
19 Federal Home Loan Mortgage Corporation  
20  
21  
22  
23  
24  
25  
26  
27  
28

AA001486



# EXHIBIT 1

AA001487

1 - Default 3270 (172.24.166.229)

File Edit Transfer Font Options Tools View Window Help

F <==FUNCTION LOAN BASIC INQUIRY OAU200IE 0091  
PAGE 1 OF 2 (OAU0010S) 02/22/17 1344

LOAN NUMBER	: [REDACTED] 0007	SSR LOAN NBR	: [REDACTED] 7549
SERVICER NBR	: 157386	ORIG AMT PRIN	: 258,400
SELLER NBR	: 623509	PURCHASE UPB	: 258,400.00
APPROVAL STATE	: NV	INT BRG UPB	: 0.00
FHLMC REGION	: 01	DFRD UPB	: 0.00
PRODUCT	: K58	NOTE RATE	: 00.375
GROUP NBR	: S524761	PART. PCT.	: 1.00
CONTRACT NBR	: 0703216037	FUNDING DATE (YYMMDD)	: 070329
LOAN DATA TYPE	: S	NOTE DATE (YYMMDD)	: 070117
LOAN TYPE	: 3	MATURITY DATE (YYMMDD)	: 370201
LOAN PROPERTY TYPE	: P1	LOAN ACCTNG NET YIELD	: [REDACTED]
LOAN STATUS	: 3	PAY OFF DATE (YYMMDD)	: 000000
OWNERSHIP CODE	: W	PAY OFF TYPE	:
REF CODE	: 0012	LTV RATIO	: 0.00
LOAN ORIGINATOR	:	ASSOC FM LOAN NBR	: 000000000
APPR ST LIC :		LN ORIGINATION COMPANY :	
LAST CHG DATE (YYMMDD) :	170202	SPVR APPR ST LIC :	
		MOD/CONV DATE (YYMMDD) :	170301

F - PAGE FORWARD R - RETURN TO LOAN DATABASE INQUIRY ONLY MENU  
M - RETURN TO LOAN / GROUP / POOL DATABASES INQUIRY ONLY MENU  
PF4/16 GSE/HMDA

Sess: 1 172.24.166.229 FMAC2035 1/2

1 - Default 3270 (172.24.166.229)

File Edit Transfer Font Options Tools View Window Help

R <==FUNCTION LOAN BASIC INQUIRY OAU205IE 0091  
PAGE 2 OF 2 (OAU0010S) 02/22/17 1344

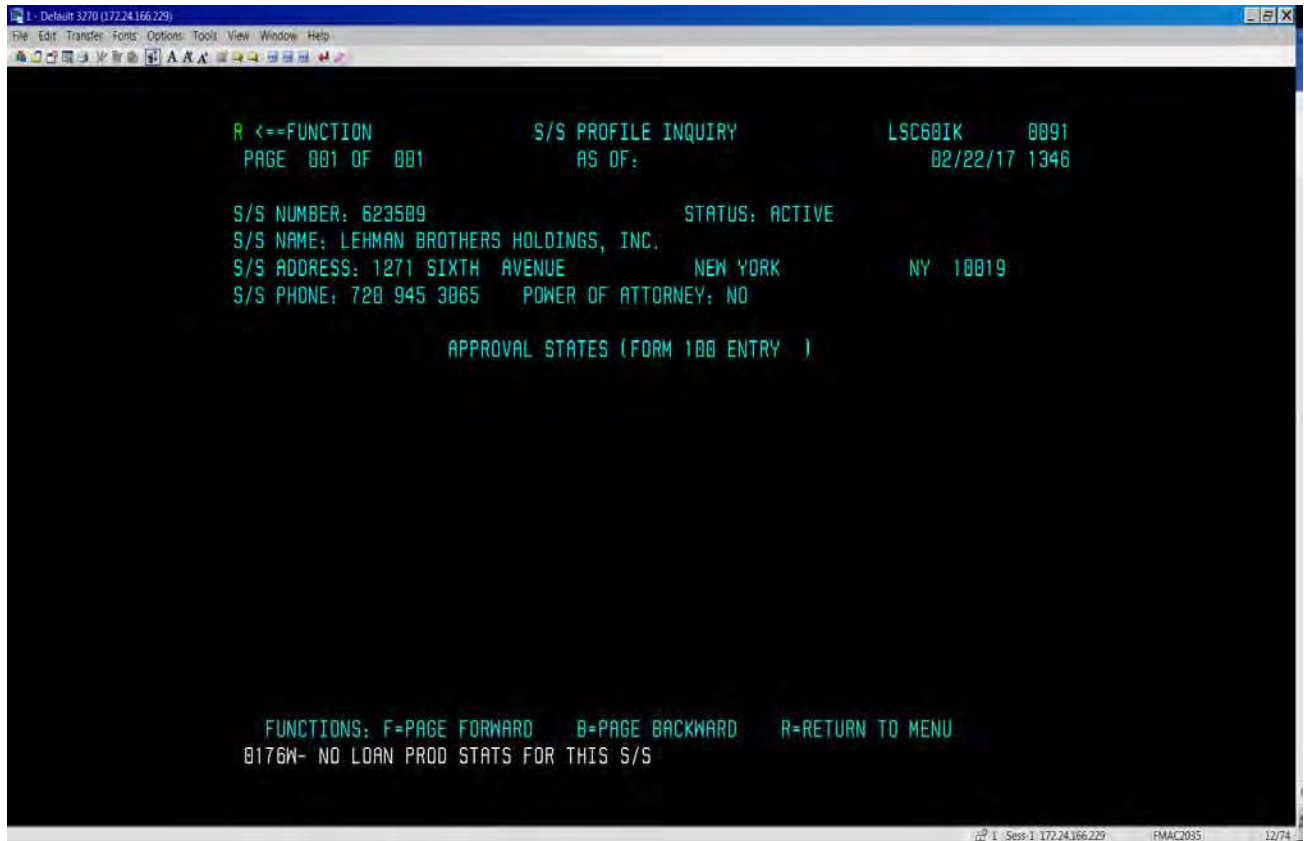
LOAN NUMBER	: [REDACTED] 0007		
BORROWER NAME	: GUILLORY, MONIQUE		
PROPERTY STREET	: 4641 VIAREGGIO COURT		
CITY	: LAS VEGAS		
STATE	: NV		
ZIP	: 891470000	ORIG COMMITMENT FEE TAX	: 000000.00
CENSUS TRACT	:	LOAN DATE INTEREST PAID TO:	070301
		MONTHLY PRIN AND INT	: 001803.42
INDEX SOURCE	: 007	BALLOON TERM	: 000
INDEX VALUE	: 00.000	DATE BALLOON DUE (YYMMDD)	: 000000
ADJ. PERIOD	: 06	SF MORTGAGE INS CODE	: 000
ADJ. NOTE RATE	: 00.000	GUAR MORTGAGE INS CODE	:
LL SERV FEE	: 00.250	INITIAL ADJ. DATE (YYMMDD)	: 000000
CAP AMOUNT	: 0.0	DISCOUNT	: 00000.00
FLEX MONTHS	: 000	PREMIUM	: 00000.00
FLEX PAYMT DATE (YYMMDD) :	000000		

R - RETURN TO LOAN DATABASE INQUIRY ONLY MENU  
M - RETURN TO LOAN / GROUP / POOL DATABASES INQUIRY ONLY MENU  
PF4/16 GSE/HMDA

Sess: 1 172.24.166.229 FMAC2035 1/2

# EXHIBIT 2

AA001489



AA001490

# EXHIBIT 3

AA001491

# Loan StatusManager TOS Summary Report

Report generated on Wednesday, February 22, 2017 at 1:50 pm.

SQL returned 1 rows

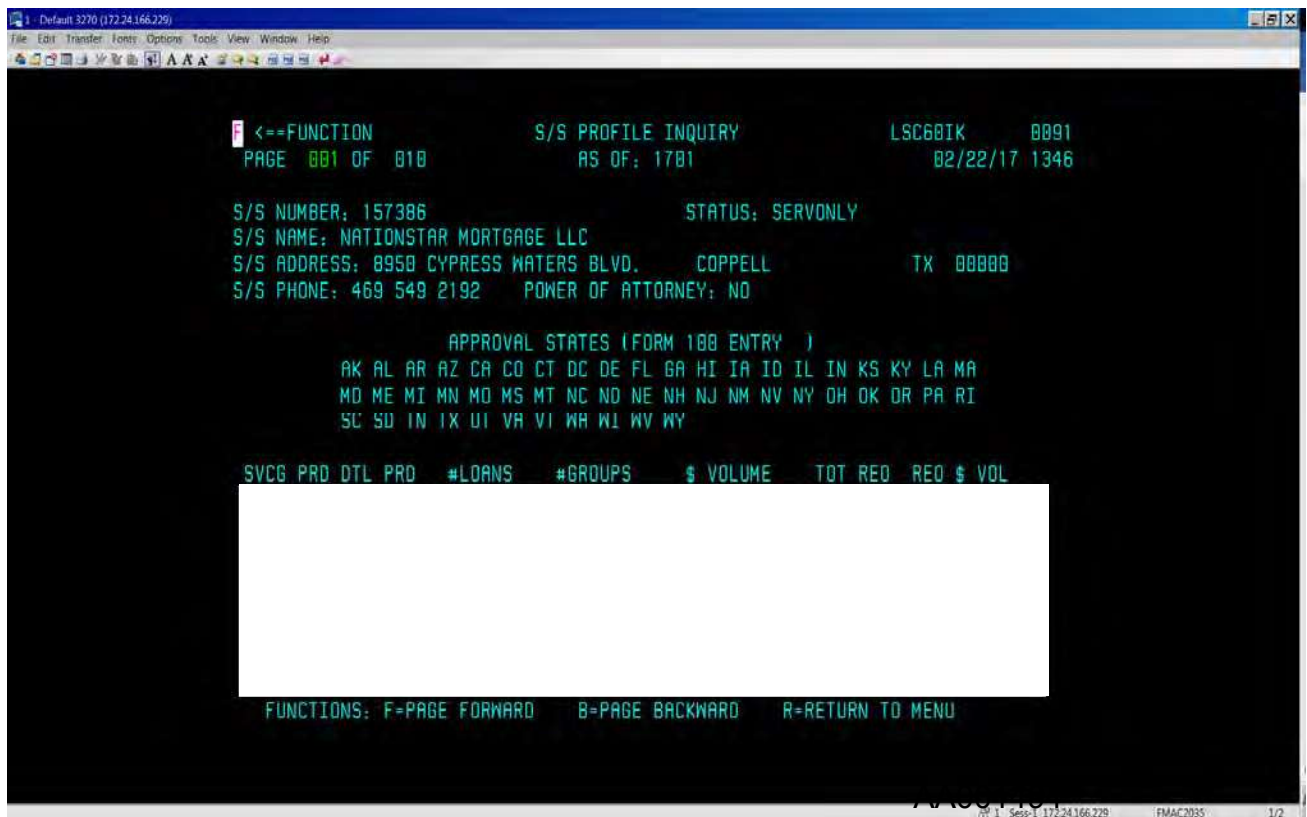
Fhlmc Loan Number: [REDACTED] 0087						
Date Requested	Status	Status Date	Date Effective	Servicer From	Servicer To	Servicer Family From To
06/19/2012	APPROVED	06/25/2012	06/16/2012	623509 - LEHMAN BROTHERS HOLDINGS, INC.	157386 - NATIONSTAR MORTGAGE LLC	623509 - LEHMAN BROTHERS HOLDINGS, INC. 152360 - NATIONSTAR MORTGAGE LLC



AA001492

# EXHIBIT 4

AA001493





# EXHIBIT 5

AA001495

**Loan Status Manager**  
**Mortgage Payment History Report**

Report generated on Wednesday, February 22, 2017 at 1:51 pm.

SQL returned 120 rows

Fhlmc Loan Number: [REDACTED] 0087														
Accounting Cycle	Date Reported	Date DDLPI Reported	Last Payment Received	Principal Due	Interest Due	Ending UPB	Negam Balance	Prepay Penalty	Proceeds	ANY Rate	Note Rate	Code Exception	Date Exception	Monthly P&I Due Date
02/15/2017	02/16/2017	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			02/21/2017
01/15/2017	01/17/2017	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			01/19/2017
12/15/2016	12/16/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			12/20/2016
11/15/2016	11/17/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			11/18/2016
10/15/2016	10/18/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			10/19/2016
09/15/2016	09/20/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			09/20/2016
08/15/2016	08/18/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			08/18/2016
07/15/2016	07/19/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			07/20/2016
06/15/2016	06/20/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			06/20/2016
05/15/2016	05/17/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			05/18/2016
04/15/2016	04/20/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			04/20/2016
03/15/2016	03/18/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00		3.625%			03/18/2016
02/15/2016	02/18/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%			02/18/2016	
01/15/2016	01/21/2016	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%			01/21/2016	
12/15/2015	12/18/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%			12/18/2015	
11/15/2015	11/17/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%			11/18/2015	
10/15/2015	10/20/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%			10/20/2015	
09/15/2015	09/18/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%			09/18/2015	
08/15/2015	08/19/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%			08/19/2015	
07/15/2015	07/20/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%			07/20/2015	

06/15/2015	06/19/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
05/15/2015	05/20/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
04/15/2015	04/17/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
03/15/2015	03/17/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
02/15/2015	02/18/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
01/15/2015	01/21/2015	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
12/15/2014	12/17/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
11/15/2014	11/19/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
10/15/2014	10/17/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
09/15/2014	09/18/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
08/15/2014	08/20/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
07/15/2014	07/18/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
06/15/2014	06/19/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
05/15/2014	05/20/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
04/15/2014	04/18/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
03/15/2014	03/19/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
02/15/2014	02/20/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
01/15/2014	01/22/2014	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
12/15/2013	12/18/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
11/15/2013	11/20/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
10/15/2013	10/18/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
09/15/2013	09/18/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.125%
08/15/2013	08/19/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%
07/15/2013	07/17/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%
06/15/2013	06/19/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%
05/15/2013	05/20/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%
04/15/2013	04/18/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%
03/15/2013	03/19/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.250%

02/15/2013	02/20/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	02/21/2013
01/15/2013	01/17/2013	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	01/18/2013
12/15/2012	12/18/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	12/19/2012
11/15/2012	11/19/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	11/20/2012
10/15/2012	10/17/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	10/18/2012
09/15/2012	09/18/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	09/19/2012
08/15/2012	08/17/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	08/20/2012
07/15/2012	07/17/2012	05/01/2010	06/22/2012	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	07/18/2012
06/15/2012	06/19/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	06/20/2012
05/15/2012	05/17/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	05/18/2012
04/15/2012	04/17/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	04/18/2012
03/15/2012	03/19/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	3.500%	03/20/2012
02/15/2012	02/17/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	02/21/2012
01/15/2012	01/17/2012	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	01/19/2012
12/15/2011	12/19/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	12/20/2011
11/15/2011	11/17/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	11/18/2011
10/15/2011	10/18/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	10/19/2011
09/15/2011	09/19/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	09/20/2011
08/15/2011	08/17/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	08/18/2011
07/15/2011	07/19/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	07/20/2011
06/15/2011	06/17/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	06/20/2011
05/15/2011	05/17/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	05/18/2011
04/15/2011	04/19/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	04/20/2011
03/15/2011	03/17/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	03/18/2011
02/15/2011	02/17/2011	05/01/2010	05/17/2010	\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	02/18/2011
01/15/2011	01/18/2011	05/01/2010	05/17/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	Inactivate loan
12/15/2010	12/17/2010	05/01/2010	05/17/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	12/20/2010

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11/15/2010	11/17/2010	05/01/2010	05/17/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	11/18/2010
10/15/2010	10/19/2010	05/01/2010	05/17/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	10/20/2010
09/15/2010	09/17/2010	05/01/2010	05/17/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	09/20/2010
08/15/2010	08/17/2010	05/01/2010	05/17/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	08/18/2010
07/15/2010	07/19/2010	05/01/2010	05/17/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	07/20/2010
06/15/2010	06/17/2010	05/01/2010	05/17/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	06/18/2010
05/15/2010	05/18/2010	04/01/2010	04/16/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	05/19/2010
04/15/2010	04/19/2010	03/01/2010	03/16/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	04/20/2010
03/15/2010	03/17/2010	02/01/2010	02/16/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	03/18/2010
02/15/2010	02/16/2010	01/01/2010	01/18/2010	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	02/18/2010
01/15/2010	01/19/2010	12/01/2009	12/10/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	01/21/2010
12/15/2009	12/17/2009	12/01/2009	12/10/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	12/18/2009
11/15/2009	11/17/2009	11/01/2009	11/13/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	11/18/2009
10/15/2009	10/19/2009	10/01/2009	10/14/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	10/20/2009
09/15/2009	09/17/2009	09/01/2009	09/10/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	09/18/2009
08/15/2009	08/18/2009	08/01/2009	08/14/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	08/19/2009
07/15/2009	07/17/2009	07/01/2009	07/13/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	07/20/2009
06/15/2009	06/18/2009	05/01/2009	05/15/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	06/18/2009
05/15/2009	05/19/2009	05/01/2009	05/15/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	05/20/2009
04/15/2009	04/17/2009	03/01/2009	03/16/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	04/20/2009
03/15/2009	03/17/2009	02/01/2009	02/13/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	03/18/2009
02/15/2009	02/17/2009	02/01/2009	02/13/2009	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	02/19/2009
01/15/2009	01/20/2009	12/01/2008	12/15/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	01/21/2009
12/15/2008	12/17/2008	12/01/2008	12/15/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	12/18/2008
11/15/2008	11/18/2008	10/01/2008	10/16/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	11/19/2008
10/15/2008	10/17/2008	09/01/2008	09/16/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	10/20/2008
09/15/2008	09/17/2008	08/01/2008	08/15/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	8.375%	09/18/2008

08/15/2008	08/19/2008	08/01/2008	08/15/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	08/20/2008
07/15/2008	07/17/2008	06/01/2008	06/16/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	07/18/2008
06/15/2008	06/17/2008	05/01/2008	05/15/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	06/18/2008
05/15/2008	05/19/2008	05/01/2008	05/15/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	05/20/2008
04/15/2008	04/17/2008	04/01/2008	04/14/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	04/18/2008
03/15/2008	03/18/2008	03/01/2008	03/14/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	03/19/2008
02/15/2008	02/19/2008	02/01/2008	02/13/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	02/21/2008
01/15/2008	01/17/2008	01/01/2008	01/07/2008	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	01/18/2008
12/15/2007	12/18/2007	12/01/2007	12/10/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	12/19/2007
11/15/2007	11/19/2007	11/01/2007	11/12/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	11/20/2007
10/15/2007	10/17/2007	10/01/2007	10/08/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	10/18/2007
09/15/2007	09/19/2007	09/01/2007	09/06/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	09/19/2007
08/15/2007	08/17/2007	08/01/2007	08/03/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	08/20/2007
07/15/2007	07/17/2007	06/01/2007	06/15/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	07/18/2007
06/15/2007	06/19/2007	06/01/2007	06/15/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	06/20/2007
05/15/2007	05/17/2007	05/01/2007	05/14/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	05/18/2007
04/15/2007	04/17/2007	04/01/2007	04/12/2007	\$0.00	\$1,749.58	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	04/18/2007
03/15/2007	04/03/2007			\$0.00	\$0.00	\$258,400.00	\$0.00	\$0.00	\$0.00	\$0.00	8.375%	



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[Download Data to an Excel Spreadsheet](#)

# EXHIBIT 6

AA001501

Freddie Mac Single Family / Archive of Single-Family Seller/Servicer Guide / Archive of Single-Family Seller/Servicer Guide Published as of the Date of the Last 2013 Bulletin / Single-Family Seller/Servicer Guide, Volume 1 / Chs. 1-A1: Introduction / Chapter 1: Introduction / 1.2: Legal effect of the Single-Family Seller/Servicer Guide (09/24/13)

**REVISION HISTORY 07/20/12 [HIDE]**

**REVISION NUMBER:** 07202012      **DATE:** 07/20/2012  
**REVISION REMARKS:** THIS CONTENT HAS CHANGED. CURRENT REQUIREMENTS APPEAR UNSHADED BELOW.

**1.2: Legal effect of the *Single-Family Seller/Servicer Guide*  
(Effective: 07/20/12)**

**ARCHIVED VERSION**

**(a) Status as a contract**

1. **Effect of the Guide.** The *Single-Family Seller/Servicer Guide* ("Guide") governs the business relationship between a Seller and Freddie Mac relating to the sale and Servicing of Mortgages. Each Seller/Servicer must complete and submit a Form 16SF, Annual Eligibility Certification Report, that certifies that the Seller/Servicer has access to the Electronic version of the Guide as an Electronic Record, as those terms are defined in Chapter 3, and is in compliance with all requirements of the Purchase Documents.
2. **Volume 1 of the Guide.** In connection with the sale of Mortgages to Freddie Mac, the Seller agrees that each transaction is governed by the Guide, the applicable Purchase Contract and all other Purchase Documents.

AA001502



3. **Volume 2 of the Guide.** A Seller must service all Mortgages that the Seller has sold to Freddie Mac and/or has agreed to service for Freddie Mac in accordance with the standards set forth in the Seller's Purchase Documents. All of a Seller's obligations to service Mortgages for Freddie Mac are considered to constitute, and must be performed pursuant to a unitary, indivisible master Servicing contract, and the Servicing obligations assumed pursuant to any contract to sell Mortgages to Freddie Mac are deemed to be merged into, and must be performed pursuant to, such unitary, indivisible master Servicing contract.

A Seller acknowledges that Freddie Mac's agreement to purchase Mortgages from the Seller pursuant to any individual Purchase Contract is based upon the Seller's agreement that the Mortgages purchased will be serviced by the Seller pursuant to the unitary, indivisible master Servicing contract. The Seller agrees that any failure to service any Mortgage in accordance with the terms of the unitary, indivisible master Servicing contract, or any breach of any of the Seller's obligations under any aspect of the unitary, indivisible master Servicing contract, shall be deemed to constitute a breach of the entire contract and shall entitle Freddie Mac to terminate all or a portion of the Servicing. The termination of a portion of the Servicing shall not alter the unitary, indivisible nature of the Servicing contract.

If a Servicer who services Mortgages for Freddie Mac is not also the Seller of the Mortgages to Freddie Mac, the Servicer must agree to service Mortgages for Freddie Mac by separate agreement, which incorporates the applicable Purchase Documents. In such case, the separate agreement shall be deemed to be one of the "Purchase Documents" that constitute the unitary, indivisible master Servicing contract.

In addition, in certain cases, a Seller and/or Servicer who uses certain Freddie Mac services will, by virtue of the provisions of the Guide, be deemed to have agreed upon certain terms and conditions related to such services and their use.

AA001503

4. **Amendments to the Guide.** Freddie Mac may, in its sole discretion, amend or supplement the Guide from time to time. Amendments to the Guide may be a paper Record or an Electronic Record, as those terms are defined in Chapter 3. The Guide may not be amended orally. Freddie Mac may amend the Guide by:

- Publishing Bulletins, which apply to all Sellers/Servicers, or
- Entering into a Purchase Contract or other written or Electronic agreement, which applies to the Seller that is a party to the Purchase Contract or agreement

Bulletins expressly amend, supplement, revise or terminate specific provisions of the Guide. An amendment, supplement, revision or termination of a provision in Volume 1 or Volume 2 of the Guide is effective as of the date specified by Freddie Mac in the applicable Bulletin.

A Purchase Contract or other written agreement or Electronic agreement amends or supplements specific provisions of the Guide for purposes of such Purchase Contract or other agreement, as applicable. Such amendments or supplements to the Guide are effective as of the date specified in the Purchase Contract or other agreement. See Section 12.3(d) for information about how amendments and supplements to Volume 1 of the Guide amend or otherwise apply to a Seller's Purchase Contracts and other Purchase Documents.

5. **Publication of Guide and Bulletins.** The Guide is posted on the AllRegs® web site of Mortgage Resource Center, Inc. (MRC) which posts the Guide under license from and with the express permission of Freddie Mac. MRC is the exclusive third-party electronic publisher of the Guide. Freddie Mac makes no representation or warranty regarding availability, features or functionality of the AllRegs web site. The Guide is also posted on FreddieMac.com.

By using the web site, Seller/Servicers acknowledge and agree (individually and on behalf of the entity for which they access the Guide) neither Freddie Mac nor MRC shall be liable to them (or the entity for which they access the Guide) for any losses or damages whatsoever resulting directly or indirectly from Freddie Mac's designation of the Guide as found on the AllRegs web site as the official Electronic version, as an Electronic Record, and MRC expressly disclaims any warranty as to the results to be obtained by Seller/Servicers (and the entity for which Seller/Servicers access the Guide) from use of the AllRegs web site, and MRC shall not be liable to Seller/Servicers (and the entity for which Seller/Servicers access the Guide) for any damages arising directly or indirectly out of the use of the AllRegs web site by them (and the entity for which they access the Guide).

From time to time, Bulletins are published on AllRegs and FreddieMac.com. Sellers and Servicers with an AllRegs subscription may receive notice of Bulletins directly from AllRegs. If a Seller or Servicer does not receive notice of Bulletins through AllRegs, the Seller or Servicer must take the steps necessary to receive the applicable Freddie Mac Single-Family Update e-mails, which will notify Sellers and Servicers of Bulletin publications. A Seller or Servicer's failure to take the appropriate steps to receive notices of Bulletins does not relieve the Seller or Servicer of its legal obligations to comply with the terms of the Bulletins.

AA001504

6. **Effective Date.** The effective date of each section of the Guide is located at the beginning of each section, to the right of the section number and name.

**(b) Copyright**

The Guide (including related supplements, bulletins and industry letters) is copyrighted. Limited permission to photocopy the Guide is granted to Seller/Service providers strictly for their own use in originating and selling Mortgages to, and in Servicing Mortgages for, Freddie Mac. No part of the Guide may be reproduced for any other reason (in any form or by any means) without the express written permission of Freddie Mac. Requests for such permission to reproduce the Guide must be sent to Freddie Mac **(see Directory 1)**.

Requests will be reviewed and answered by Freddie Mac in the ordinary course of business.

Freddie Mac reserves the right to revoke permission to reproduce the Guide upon 60 days' notice to any and all Sellers and Service providers. Under no circumstances will Freddie Mac permit the Guide to be reproduced by any Electronic or mechanical means, including, but not limited to, reproduction in, or as a component of, any information storage and retrieval system.

**(c) Reliance**

By entering into a Purchase Contract or into the unitary, indivisible master Servicing contract with Freddie Mac, the Seller or Service provider acknowledges that it is not relying upon Freddie Mac or any employee, agent or representative thereof, in making its decision to enter into the contract and that it has relied upon the advice and counsel of its own employees, agents and representatives as to the regulatory, business, corporate, tax, accounting and other consequences of entering into and performing its obligations under a Purchase Contract or the unitary, indivisible master Servicing contract.

AA001505

**(d) Assignments; security interests**

A Seller or Servicer shall not, in whole or in part, assign or transfer or grant a security interest in, any of its obligations, rights or interest under any Purchase Contract or under the unitary, indivisible master Servicing contract, including any of its rights or obligations under this Guide or any of the Purchase Documents, without Freddie Mac's prior written consent. Any purported or attempted assignment or transfer of, or grant of a security interest in, any such obligations, rights or interest is prohibited and shall be null and void.

Notwithstanding the provisions of the immediately preceding paragraph, Freddie Mac may consent to a Servicer's grant to one or more third parties of a security interest under the Uniform Commercial Code in the conditional, nondelegable contract right of the Servicer to service Home Mortgages for Freddie Mac pursuant to the terms of the unitary, indivisible master Servicing contract ("Freddie Mac Servicing rights"). Freddie Mac will indicate its consent only by executing an Acknowledgment Agreement, which must also be executed by a Servicer and the third party to whom the Servicer grants a security interest. A Servicer may write to Freddie Mac (**see Directory 1**) for a copy of the Acknowledgment Agreement and instructions for completing and executing it.

A Servicer's grant to a third party of a security interest in the Servicer's Freddie Mac Servicing rights, as more specifically defined in the Acknowledgment Agreement, may be made only for a purpose specified in the instructions for the Acknowledgment Agreement. Any purported or attempted grant of a security interest in any other rights or interest of the Servicer under the Guide or any of the Purchase Documents, or for the purpose of securing any other type of obligation, is prohibited and shall be null and void. In addition, a Servicer's purported or attempted grant to a third party of a security interest in the Servicer's Freddie Mac Servicing rights without the Servicer and the third party also having executed the Acknowledgment Agreement is prohibited and shall be null and void.

Freddie Mac has the right to sell, assign, convey, hypothecate, pledge or in any way transfer, in whole or in part, its interest under the Purchase Documents with respect to any Mortgage it purchases.

**(e) Severability**

If any provision of this Guide shall be held invalid, the legality and enforceability of all remaining provisions shall not in any way be affected or impaired thereby, and this Guide shall be interpreted as if such invalid provision were not contained herein.

**(f) Construction of Guide**

This Guide shall not be construed against Freddie Mac as being the drafter hereof.

**(g) Entire agreement**

This Guide, including the exhibits attached to the Guide and all Purchase Documents incorporated by reference in the Guide, constitutes the entire understanding between Freddie Mac and the Seller or Servicer and supersedes all other agreements, covenants, representations, warranties, understandings and communications between the parties, whether oral or written or Electronic, with respect to the transactions contemplated by the Guide.

AA001506

**(h) Governing law**

This Guide shall be construed, and the rights and obligations of Freddie Mac and the Seller or Servicer hereunder determined, in accordance with the laws of the United States. Insofar as there may be no applicable precedent, and insofar as to do so would not frustrate any provision of this Guide or the transactions governed thereby, the laws of the State of New York shall be deemed reflective of the laws of the United States.

**1.2: Legal effect of the *Single-Family Seller/Servicer Guide (09/24/13)*****ARCHIVED VERSION****(a) Status as a contract**

1. **Effect of the Guide.** The Guide governs the business relationship between a Seller/**Servicer** and Freddie Mac relating to the sale and Servicing of Mortgages. Each Seller/Servicer must complete and submit a Form 16SF, Annual Eligibility Certification Report, that certifies that the Seller/Servicer has access to the Electronic version of the Guide as an Electronic Record, as those terms are defined in Chapter 3, and is in compliance with all requirements of the Purchase Documents.
2. **Volume 1 of the Guide.** In connection with the sale of Mortgages to Freddie Mac, the Seller/**Servicer** agrees that each transaction is governed by the Guide, the applicable Purchase Contract and all other Purchase Documents.

AA001507

3. **Volume 2 of the Guide.** A Seller/Service~~r~~ must service all Mortgages that the Seller/Service~~r~~ has sold to Freddie Mac and/or has agreed to service for Freddie Mac in accordance with the standards set forth in the Seller/Service~~r~~'s Purchase Documents. All of a Seller/Service~~r~~'s obligations to service Mortgages for Freddie Mac are considered to constitute, and must be performed pursuant to a unitary, indivisible master Servicing contract, and the Servicing obligations assumed pursuant to any contract to sell Mortgages to Freddie Mac are deemed to be merged into, and must be performed pursuant to, such unitary, indivisible master Servicing contract.

A Seller/Service~~r~~ acknowledges that Freddie Mac's agreement to purchase Mortgages from the Seller/Service~~r~~ pursuant to any individual Purchase Contract is based upon the Seller/Service~~r~~'s agreement that the Mortgages purchased will be serviced by the Seller/Service~~r~~ pursuant to the unitary, indivisible master Servicing contract. The Seller/Service~~r~~ agrees that any failure to service any Mortgage in accordance with the terms of the unitary, indivisible master Servicing contract, or any breach of any of the Seller/Service~~r~~'s obligations under any aspect of the unitary, indivisible master Servicing contract, shall be deemed to constitute a breach of the entire contract and shall entitle Freddie Mac to terminate all or a portion of the Servicing. The termination of a portion of the Servicing shall not alter the unitary, indivisible nature of the Servicing contract.

If a Servicer who services Mortgages for Freddie Mac is not also the Seller of the Mortgages to Freddie Mac, the Servicer must agree to service Mortgages for Freddie Mac by separate agreement, which incorporates the applicable Purchase Documents. In such case, the separate agreement shall be deemed to be one of the "Purchase Documents" that constitute the unitary, indivisible master Servicing contract.

In addition, in certain cases, a Seller and/or Servicer who uses certain Freddie Mac services will, by virtue of the provisions of the Guide, be deemed to have agreed upon certain terms and conditions related to such services and their use.

4. **Amendments to the Guide.** Freddie Mac may, in its sole discretion, amend or supplement the Guide from time to time. Amendments to the Guide may be a paper Record or an Electronic Record, as those terms are defined in Chapter 3. The Guide may not be amended orally. Freddie Mac may amend the Guide by:

- Publishing Bulletins, which apply to all Sellers/Service~~r~~s, or
- Entering into a Purchase Contract or other written or Electronic agreement, which applies to the Seller that is a party to the Purchase Contract or agreement

Bulletins expressly amend, supplement, revise or terminate specific provisions of the Guide. An amendment, supplement, revision or termination of a provision in Volume 1 or Volume 2 of the Guide is effective as of the date specified by Freddie Mac in the applicable Bulletin.

A Purchase Contract or other written agreement or Electronic agreement amends or supplements specific provisions of the Guide for purposes of such Purchase Contract or other agreement, as applicable. Such amendments or supplements to the Guide are effective as of the date specified in the Purchase Contract or other agreement. See Section 12.3(d) for information about how amendments and supplements to Volume 1 of the Guide amend or otherwise apply to a Seller's Purchase Contracts and other Purchase Documents.

AA001508

5. **Publication of Guide and Bulletins.** The Guide is posted on the AllRegs® web site of Mortgage Resource Center, Inc. (MRC), which posts the Guide under license from and with the express permission of Freddie Mac. MRC is the exclusive third-party electronic publisher of the Guide. Freddie Mac makes no representation or warranty regarding availability, features or functionality of the AllRegs web site. The Guide is also available through FreddieMac.com.

By using the web site, Seller/Serviceirs acknowledge and agree (individually and on behalf of the entity for which they access the Guide) neither Freddie Mac nor MRC shall be liable to them (or the entity for which they access the Guide) for any losses or damages whatsoever resulting directly or indirectly from Freddie Mac's designation of the Guide as found on the AllRegs web site as the official Electronic version, as an Electronic Record, and MRC expressly disclaims any warranty as to the results to be obtained by Seller/Serviceirs (and the entity for which Seller/Serviceirs access the Guide) from use of the AllRegs web site, and MRC shall not be liable to Seller/Serviceirs (and the entity for which Seller/Serviceirs access the Guide) for any damages arising directly or indirectly out of the use of the AllRegs web site by them (and the entity for which they access the Guide).

Bulletins are published on AllRegs and FreddieMac.com. Sellers and Serviceirs with an AllRegs subscription may receive notice of Bulletins directly from AllRegs. If a Seller or Serviceir does not receive notice of Bulletins through AllRegs, the Seller or Serviceir must take the steps necessary to receive the applicable Freddie Mac Single-Family Update e-mails, which will notify Sellers and Serviceirs of Bulletin publications. A Seller or Serviceir's failure to take the appropriate steps to receive notices of Bulletins does not relieve the Seller or Serviceir of its legal obligations to comply with the terms of the Bulletins.

6. **Effective Date.** The effective date of each section of the Guide is located at the beginning of each section, to the right of the section number and name.

**(b) Copyright**

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Requests will be reviewed and answered by Freddie Mac in the ordinary course of business.

Freddie Mac reserves the right to revoke permission to reproduce the Guide upon 60 days' notice to any and all Sellers and Serviceirs. Under no circumstances will Freddie Mac permit the Guide to be reproduced by any Electronic or mechanical means, including, but not limited to, reproduction in, or as a component of, any information storage and retrieval system.

AA001509

**(c) Reliance**

By entering into a Purchase Contract or into the unitary, indivisible master Servicing contract with Freddie Mac, the Seller or Servicer acknowledges that it is not relying upon Freddie Mac or any employee, agent or representative thereof, in making its decision to enter into the contract and that it has relied upon the advice and counsel of its own employees, agents and representatives as to the regulatory, business, corporate, tax, accounting and other consequences of entering into and performing its obligations under a Purchase Contract or the unitary, indivisible master Servicing contract.

**(d) Assignments; security interests**

A Seller or Servicer shall not, in whole or in part, assign or transfer or grant a security interest in, any of its obligations, rights or interest under any Purchase Contract or under the unitary, indivisible master Servicing contract, including any of its rights or obligations under this Guide or any of the Purchase Documents, without Freddie Mac's prior written consent. Any purported or attempted assignment or transfer of, or grant of a security interest in, any such obligations, rights or interest is prohibited and shall be null and void.

Freddie Mac has the right to sell, assign, convey, hypothecate, pledge or in any way transfer, in whole or in part, its interest under the Purchase Documents with respect to any Mortgage it purchases.

**(e) Severability**

If any provision of this Guide shall be held invalid, the legality and enforceability of all remaining provisions shall not in any way be affected or impaired thereby, and this Guide shall be interpreted as if such invalid provision were not contained herein.

**(f) Construction of Guide**

This Guide shall not be construed against Freddie Mac as being the drafter hereof.

**(g) Entire agreement**

This Guide, including the exhibits attached to the Guide and all Purchase Documents incorporated by reference in the Guide, constitutes the entire understanding between Freddie Mac and the Seller or Servicer and supersedes all other agreements, covenants, representations, warranties, understandings and communications between the parties, whether oral or written or Electronic, with respect to the transactions contemplated by the Guide.

**(h) Governing law**

This Guide shall be construed, and the rights and obligations of Freddie Mac and the Seller or Servicer hereunder determined, in accordance with the laws of the United States. Insofar as there may be no applicable precedent, and insofar as to do so would not frustrate any provision of this Guide or the transactions governed thereby, the laws of the State of New York shall be deemed reflective of the laws of the United States.

Related Guide Bulletins	Issue Date
Bulletin 2013-18	September 24, 2013

AA001510



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## 52.5: The Mortgage file, Mortgage data and related records (05/17/11)

### ARCHIVED VERSION

- (a) **Ownership** All documents in the Mortgage file, all data related to Mortgages owned or guaranteed by Freddie Mac to which the Servicer obtains access in connection with any agreement with Freddie Mac, including, without limitation, data in the documents in the Mortgage file (collectively, Mortgage data) and all other documents and records related to the Mortgage of whatever kind or description (whether prepared or originated by the Servicer or others, or whether prepared or maintained or held by the Servicer or others acting for and on behalf of the Servicer), including all current and historical computerized data files, will be, and will remain at all times, the property of Freddie Mac. All of these records and Mortgage data in the possession of the Servicer are retained by the Servicer in a custodial capacity only.

(b) **Permitted use of Mortgage data**

The Servicer may use these records and Mortgage data only for the following purposes:

- Servicing Mortgages (and, in compliance with the provisions of the Guide, retaining subservicers to service Mortgages) on behalf of, and in the interest of, Freddie Mac;
- As background information for the Servicer's use related to marketing or cross-selling of the Servicer's own primary market products and services in compliance with applicable laws, provided that such marketing and cross-selling does not involve disclosure of these records or Mortgage data to any third parties, other than vendors assisting the Servicer in its marketing activities who are themselves bound by these requirements;
- As necessary to enable a vendor to provide analytic services to the Servicer with respect to the Servicer's Servicing portfolio, for the Servicer's internal use only, provided the vendor is bound by these requirements; and
- As necessary to enable the Servicer to comply with its obligations under applicable law, including, without limitation, any disclosures required in connection with audits by regulatory agencies with jurisdiction over the Servicer's operations.

Except as expressly authorized by Freddie Mac in writing, Servicers may not use or disclose, or authorize or permit third parties to use or disclose, these records or Mortgage data for any other purpose, including, without limitation, resale or licensing of Mortgage data, either alone or with other data. See Section 53.3, Confidential Information; Privacy; Conflicts of Interest, Misuse of Material Information; Security of Information, for additional requirements related to confidentiality.

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#### **6.6: Survival of warranties; remedies (05/05/00)**

##### **ARCHIVED VERSION**

The warranties and representations in the Purchase Documents for any Mortgage purchased by Freddie Mac survive payment of the purchase price by Freddie Mac. The warranties and representations are not affected by any investigation made by, or on behalf of, Freddie Mac, except when expressly waived in writing by Freddie Mac.

When any party has purchased a Mortgage from Freddie Mac that Freddie Mac previously purchased from a Seller, Freddie Mac may exercise any rights or remedies at law or in equity on behalf of the party to the extent that the party does not affirmatively do so. Freddie Mac may also exercise its discretion to disqualify or suspend a Seller or a Servicer pursuant to Chapter 5 or 53.

For each Mortgage purchased by Freddie Mac, the Seller and the Servicer agree that Freddie Mac may, at any time and without limitation, require the Seller or the Servicer, at the Seller's or the Servicer's expense, to make such endorsements to and assignments and recordings of any of the Mortgage documents so as to reflect the interests of Freddie Mac and/or its successors and assigns.

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## **52.7: Transfer of file custody; security of file information (10/01/09)**

### **ARCHIVED VERSION**

Freddie Mac may at any time require the Servicer to deliver the following documents to a Document Custodian approved by Freddie Mac or a transferee designated by Freddie Mac:

- Any original Note, Security Instrument, assignment and modifying instrument still in the Servicer's custody
- Any Mortgage file, document within a Mortgage file or other related documents and records in the Servicer's or its Document Custodian's custody, whether maintained as originals or as copies in accordance with Section 52.2

The Servicer may, without Freddie Mac's prior approval, entrust custody of all or part of the Mortgage file to the Document Custodian holding Notes and assignments under Section 18.2. When requested, the Servicer must be able to identify to Freddie Mac those file items held by the Document Custodian and document to Freddie Mac the Document Custodian's acknowledgment that such file items:

- Are Freddie Mac's property
- Will be maintained by the Document Custodian according to standards at least equal to those set in this chapter
- Will be maintained in such a way as to ensure the security and confidentiality of the information; protect against anticipated threats or hazards to the security or integrity of the information; and protect against unauthorized access to or use of such information
- Will be surrendered to Freddie Mac at any time Freddie Mac may request them

The Servicer agrees to indemnify Freddie Mac and hold Freddie Mac harmless for any loss, damage or expense (including court costs and reasonable attorney fees) that Freddie Mac may incur as a result of the Document Custodian's holding all or part of the Mortgage file.

The Servicer must maintain a copy (in a form allowable under Section 52.2) of any original document that has been entrusted to the Document Custodian for safekeeping. If all or part of the Mortgage file is held by the Servicer's Document Custodian, the Servicer agrees to recover from the Document Custodian (at the Servicer's expense) and provide to Freddie Mac (at the place and within the timeframe specified by Freddie Mac) any Document Custodian-held original document requested by Freddie Mac for the postfunding quality control detailed in Chapter 47 or in conjunction with a Freddie Mac desktop or on-site review of the Servicer's Servicing operations.

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## 22.14: Assignment of Security Instrument (10/01/09)

### ARCHIVED VERSION

The Seller/Servicer is not required to prepare an assignment of the Security Instrument to the Federal Home Loan Mortgage Corporation (Freddie Mac). However, Freddie Mac may, at its sole discretion and at any time, require a Seller/Servicer, at the Seller/Servicer's expense, to prepare, execute and/or record assignments of the Security Instrument to Freddie Mac.

If an assignment of the Security Instrument to Freddie Mac has been prepared, Seller/Servicer must not record it unless directed to do so by Freddie Mac. Any statement in the assignment to the effect that the assignment is made without recourse will in no way affect the Seller/Servicer's repurchase obligations under the Purchase Documents.

Intervening Assignments must be prepared as required in Sections 22.14(a), 22.14(b) or 22.14(c) below.

Special provisions for preparing assignments for Mortgages secured by Manufactured Homes located in certificate of title States where there is no provision for surrender and cancellation of the certificate of title are set forth in Section H33.7(c), paragraph 3. Mortgages secured by Manufactured Homes located in certificate of title States where there is no provision for surrender and cancellation of the certificate of title may not be registered with MERS.

- (a) Preparation and completion of assignments for Mortgages not registered with MERS** For a Mortgage not registered with MERS, the Seller/Servicer must ensure that the chain of assignments is complete and recorded from the original mortgagee on the Security Instrument to the Seller. If the Seller concurrently or subsequently transfers the Servicing, an assignment to the new Servicer must be completed and recorded where required, thus keeping the chain complete.

If a State does not accept assignments for recordation, the Seller must so state in an affidavit maintained with the unrecorded assignment.

- (b) Preparation and completion of assignments for Mortgages registered with MERS**

For a Mortgage registered with MERS, if MERS is not the original mortgagee of record, the Seller/Servicer must ensure that:

- An assignment to MERS has been prepared, duly executed and recorded
- The chain of assignments is complete and recorded from the original mortgagee to MERS

If the Seller/Servicer concurrently or subsequently transfers the Servicing of a Mortgage registered with MERS, no further assignments are required if the Transferee Servicer is a MERS member. If the Transferee Servicer is not a MERS member, or if the Mortgage has not been, or is no longer, registered with MERS, the Seller/Servicer must complete the assignments in accordance with the requirements in Section 22.14(a).

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**(c) Mortgages registered with MERS naming MERS as original mortgagee of record**

No assignments are required for a Mortgage registered with MERS if:

- The Mortgage is originated naming MERS as the original mortgagee of record, solely as nominee for the lender named in the Security Instrument and the Note, and the lender's successors and assigns, and
- The Seller/Servicer has ensured that the Security Instrument is properly executed, acknowledged, delivered and recorded in all places necessary to perfect a First Lien security interest in the Mortgaged Premises in favor of MERS, solely as nominee for the lender named in the Security Instrument and the Note, and the lender's successors and assigns

**(d) Concurrent Transfers of Servicing**

If the Mortgage is registered with MERS, and the Transferee Seller/Servicer is not a MERS Member, then the requirements for Mortgages not registered with MERS in the first paragraph of Section 22.14(a) must be followed.

For a Concurrent Transfer of Servicing when a Mortgage is registered with MERS:

- The Transferor Seller must notify MERS of the Transfer of Servicing
- The Transferee Seller/Servicer must follow the document custodial procedures in Section 56.9, and deliver the assignments to the Transferee Document Custodian to be verified and certified in accordance with the requirements of Section 18.5, unless the Transferee Seller/Servicer has elected to retain all assignments for MERS-registered Mortgages in the Mortgage files. The Transferee Seller/Servicer must also supply its Document Custodian with any documentation necessary for the Document Custodian to determine whether the Seller/Servicer has elected to hold all assignments in the Mortgage files

For a Concurrent Transfers of Servicing when a Mortgage is not registered with MERS:

- The Transferor Seller must record any Intervening Assignments to complete the chain of assignments from the original mortgagee to the Transferor Seller, in accordance with Section 22.14(a)
- The Transferor Servicer must then assign the Security Instruments to the Transferee Servicer and record the assignments
- The Transferee Servicer must follow the document custodial procedures set forth in Section 56.9, and deliver the assignments to the Transferee Document Custodian, to be verified and certified in accordance with the requirements of Section 18.5

Special provisions for Concurrent Transfers of Servicing of Mortgages secured by Manufactured Homes located in certificate of title States where there is no provision for surrender and cancellation of the certificate of title are set forth in Section H33.7 (c), paragraph 3.

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**(e) Delivery to a Document Custodian**

The Seller/Servicer must deliver all Intervening Assignments for each Mortgage to the Document Custodian, unless the Mortgage is registered with MERS and the Seller/Servicer has elected to retain all assignments for MERS-registered Mortgages in the Mortgage files. The Seller/Servicer must also supply its Document Custodian with any documentation necessary for the Document Custodian to determine if it should expect to receive assignments for MERS-registered Mortgages.

If a recorder's office has not yet returned a recorded Intervening Assignment to the Seller/Servicer, the Seller/Servicer must deliver a certified copy of the assignment sent for recordation to the Document Custodian.

The original recorded assignment must be delivered to the Document Custodian immediately after the Seller/Servicer receives it from the recorder's office. If a jurisdiction does not accept assignments for recordation, the Seller/Servicer must so indicate in an affidavit delivered to the Document Custodian with the unrecorded Intervening Assignment.

**(f) Transfer or assignment of Freddie Mac's interests**

For transfer or assignment of Freddie Mac's interest in the Mortgage, the Seller/Servicer shall prepare at its own expense any assignment necessary to transfer the Security Instrument to Freddie Mac's assignee, designee or transferee.

**(g) Transfer of Servicing**

See Sections 56.7 and 56.9.

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## **56.7: Endorsement of Notes and assignment of Security Instruments (10/01/09)**

### **ARCHIVED VERSION**

When a Mortgage is sold to Freddie Mac, the Seller must endorse the Note in blank in accordance with Section 16.4. When a Transfer of Servicing occurs, the Transferor Servicer may not complete the blank endorsement or further endorse the Note, but must prepare and complete assignments according to the following requirements:

#### **(a) Concurrent Transfer of Servicing for a Mortgage not registered with the Mortgage Electronic Registration Systems Inc. (MERS)**

To prepare and complete assignment of the Security Instrument for a Concurrent Transfer of Servicing for a Mortgage not registered with MERS, the Transferor Servicer must:

- Record any Intervening Assignments to complete the chain of assignments to it from the original mortgagee, in accordance with Section 22.14(a)
- Assign the Security Instruments to the Transferee Servicer, and record the assignment
- Follow the document custodial procedures set forth in Section 56.9 and deliver the assignment to the Transferee Document Custodian to be verified in accordance with the requirements of Section 18.5

See Section 22.14(a) for additional information.

#### **(b) Concurrent Transfer of Servicing for a Mortgage registered with MERS**

To prepare and complete an assignment of the Security Instrument for a Concurrent Transfer of Servicing of a Mortgage that is registered with MERS:

- If the **Transferee Servicer is a MERS Member**, no further assignment is needed. The Transferor Servicer must notify MERS of the Transfer of Servicing.
- If the **Transferee Servicer is not a MERS Member**, then for a Concurrent Transfer of Servicing:
  - The Transferor Servicer must prepare and record an assignment of the Security Instrument (on behalf of MERS) from MERS to the Transferee Servicer
  - The Transferor Servicer must follow the document custodial procedures set forth in Section 56.9, and deliver the assignment to the Transferee Document Custodian to be verified and certified in accordance with the requirements of Section 18.5

See Section 22.14(b) for additional information.

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**(c) Subsequent Transfer of Servicing for a Mortgage not registered with MERS**

To prepare and complete an assignment of a Security Instrument for a Subsequent Transfer of Servicing for a Mortgage not registered with MERS, the Transferor Servicer must:

- Recover and destroy any original unrecorded assignments to Freddie Mac that may have been prepared
- Assign the Security Instrument to the Transferee Servicer and record the assignment
- Follow the document custody procedures set forth in Section 56.9, and deliver the assignment(s) to the Transferee Document Custodian to be verified and certified in accordance with the requirements of Section 18.5

If an original assignment to Freddie Mac was recorded, no additional assignment need be made.

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## **56.15: Liabilities of the Transferor Servicer and Transferee Servicer (10/03/12)**

### **ARCHIVED VERSION**

#### **(a) Warranties**

Except as stated in the following paragraph, for Transfer of Servicing requests received by Freddie Mac, the Transferee Servicer is liable to Freddie Mac for all sale and Servicing responsibilities, representations, covenants and warranties in the Purchase Documents with respect to the Mortgages and Real Estate Owned (REO) for which Servicing is transferred, whether or not the Transferor Servicer had such liability. The Transferee Servicer's assumption of responsibilities, representations, covenants and warranties upon transfer does not release the Transferor Servicer, any prior Servicer, or the original Seller of their responsibilities, representations, covenants and warranties with respect to the transferred Mortgages, their liability being joint and several with the Transferee Servicer. However, a Transferor Servicer does not assume such liability for Servicing violations occurring in all respects after the effective date of its transfer and based in all respects upon the actions or omissions of later Transferee Servicers.

For Mortgages sold through Gold Cash Xtra<sup>®</sup> and the Servicing Released Sales Process, the Seller remains solely liable to Freddie Mac for all sale representations, covenants and warranties in the Purchase Documents (sale representations and warranties) with respect to the Mortgages for which Servicing is transferred. The Transferee Servicer is liable to Freddie Mac for all servicing responsibilities, representations, covenants and warranties in the Purchase Documents with respect to the Mortgages for which Servicing is transferred. For subsequent Transfers of Servicing of such Mortgages:

- The Seller Transferor remains solely liable to Freddie Mac for all sale representations and warranties with respect to the Mortgages for which Servicing is transferred; and
- The subsequent Transferee Servicer is liable to Freddie Mac for all Servicing responsibilities, representations, covenants and warranties in the Purchase Documents with respect to the Mortgages and Real Estate Owned (REO) for which Servicing is transferred, but the Transferee Servicer's assumption of responsibilities, representations, covenants and warranties upon transfer does not release the subsequent Transferor Servicer or any prior Servicer of their responsibilities, representations, covenants and warranties with respect to Servicing of the transferred Mortgages, their liability being joint and several with the Transferee Servicer. However, a Transferor Servicer does not assume such liability for Servicing violations occurring in all respects after the effective date of its transfer and based in all respects upon the actions or omissions of later Transferee Servicers.

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**(b) Hold harmless**

The Transferor Servicer and the Transferee Servicer, jointly and severally, fully indemnify and agree to hold Freddie Mac, its successors and assigns, harmless from and against any and all losses, claims, demands, actions, suits, damages, costs and expenses (including reasonable attorney fees) of every nature and character that may arise or be made against or be incurred by Freddie Mac as a result of the Transferor Servicer's or the Transferee Servicer's failure to comply with applicable law or failure to comply with Freddie Mac's Servicing requirements as set forth in the Purchase Documents, including, but not limited to failure to provide the notices required by Section 56.14, failure to make any payment to the appropriate parties for which Escrow is collected and failure to credit properly any payments received from Borrowers.

**(c) Servicing**

The Transferee Servicer hereby agrees to service the Mortgages in accordance with the terms of the unitary, indivisible master Servicing contract comprising the Guide, applicable bulletins, applicable *users' guides* and any other applicable Purchase Documents, all of which are fully incorporated herein by reference.

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**REVISION HISTORY 03/23/11 [Show]**

**54.4: Servicing obligations to be performed for the Servicing compensation (06/01/13)**

**ARCHIVED VERSION**

In consideration for the Servicing Spread, a Servicer is responsible for the performance of all of its Servicing obligations described in the Guide and other Purchase Documents for each of the Mortgages purchased by Freddie Mac. The Servicer's Servicing obligations compensated by the Servicing Spread include, among other things, undertaking all activities required to protect Freddie Mac's interest in the Mortgage in the event of a foreclosure of the property or a bankruptcy of the Borrower, such as:

- Preparing and delivering foreclosure and bankruptcy referrals to attorneys
- Providing all documents and information necessary for the attorneys to prosecute foreclosure or bankruptcy cases (including, but not limited to, missing documents such as Notes, title insurance policies, and Intervening Assignments)
- When necessary, paying for the preparation and recordation of missing documents, such as Intervening Assignments, necessary for the prosecution of foreclosure or bankruptcy cases
- Resolving any title issues that are the result of the Seller's or Servicer's action or inaction
- Managing attorneys, including but not limited to:
  - Collecting, receiving, processing, reviewing and paying attorneys' invoices
  - Supervising and providing necessary assistance to attorneys in the foreclosure and bankruptcy proceedings
  - Making available any monitoring, management, reporting, information and document delivery processes or systems, and paying the fees and costs for such processes or systems
- Continuing to work with the Borrower to resolve the delinquency through loss mitigation activities
- Handling the bankruptcy management activities specified in Chapter 67

Refer to Section 66.25 for information on connectivity and invoice processing systems and reimbursement of fees for use of such systems.

Nothing in the Guide is intended to prohibit a foreclosure or bankruptcy attorney from assisting a Servicer by working with a Borrower to facilitate a reinstatement of the Mortgage or loss mitigation activity.

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#### **18.4: Seller/Servicer responsibilities (10/01/09)**

#### **ARCHIVED VERSION**

##### **(a) Responsibility for documents and Document Custodian compliance**

The Seller/Servicer agrees to indemnify Freddie Mac and hold Freddie Mac harmless for any loss, damage or expense (including court costs and reasonable attorney fees) that Freddie Mac may incur as a result of the Seller/Servicer's Document Custodian holding Notes and any other documents.

The Seller/Servicer is responsible for ensuring that its Document Custodian complies with all applicable Freddie Mac requirements regarding Note custody. Freddie Mac's Document Custody Procedure Handbook is available to Seller/Servicers and Document Custodians on AllRegs, or at <http://www.freddiemac.com/cim/handbook.html>. Seller/Servicers and Document Custodians will find this handbook to be a useful resource in fulfilling these requirements.

##### **(b) Monitoring the eligibility status of the Document Custodian**

The Seller/Servicer is responsible for monitoring its Document Custodian for compliance with Freddie Mac's Document Custodian eligibility requirements, and must ensure that its Document Custodian is in compliance with all eligibility requirements at all times, provided, however, that Freddie Mac will perform this monitoring for the Designated Custodian.

If, at any time, the Document Custodian fails to comply with any eligibility requirement, the Seller/Servicer must contact Freddie Mac (**see Directory 1**) in writing within one day of the Seller/Servicer learning of the noncompliance. Freddie Mac, at its discretion, may allow the Seller/Servicer a period of time to work with its Document Custodian to ensure that the Document Custodian takes all necessary steps to meet the requirements. However, Freddie Mac reserves the right to immediately terminate a custodial agreement. Further, Freddie Mac may direct the Seller/Servicer to transfer the Notes to the Designated Custodian or a new Document Custodian pursuant to Sections 18.1 through 18.3, and transfer all Notes and assignments for Mortgages serviced for Freddie Mac from the old Document Custodian to the new Document Custodian, pursuant to the requirements of Section 18.6.

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**(c) Transit insurance requirements**

If the Seller/Servicer has not contractually agreed with the Document Custodian to have the Document Custodian assume liability for Notes and assignments while in transit, the Seller/Servicer must obtain insurance covering physical damage or destruction to, or loss of, any Notes and assignments while such documents are in transit between the Document Custodian's vault and anywhere, regardless of the means by which they are transported. For the purpose of this insurance, Mortgage Notes are to be defined as "Negotiable Instruments" per Section 3-104 of the Uniform Commercial Code (UCC).

At a minimum, the required insurance coverage must:

- Be underwritten by an insurer that has an A- (A minus) or better rating according to the A.M. Best Company
- Be maintained in amounts that are deemed adequate for the number of Notes and assignments held in custody and that are deemed appropriate based on prudent business practice
- Each have a deductible amount no more than the greater of 5% of the Seller/Servicer's GAAP net worth or \$100,000, but in no case greater than \$10,000,000

In the event that a Seller/Servicer is covered under its parent's insurance program rather than by its own insurance:

- The acceptable deductible amount for each insurance coverage may be no more than the greater of 5% of the parent's GAAP net worth or \$100,000, but in no case greater than \$10,000,000
- The Seller/Servicer must be a named insured
- The parent's insurance policy(ies) must meet requirements as stated in this subsection

In the event of cancellation or non-renewal of any of the required insurance coverages, the Seller/Servicer or the Seller/Servicer's insurer, insurance broker or agent must provide Freddie Mac (**see Directory 1**) a minimum of 30 days advance written notice thereof.

Freddie Mac's insurance requirements as stated in this subsection do not diminish, restrict or otherwise limit the Seller/Servicer's responsibilities and obligations as stated in the Form 1035, Form 1035DC, or otherwise in the Purchase Documents.

**(d) Transfers of Servicing**

For Transfers of Servicing pursuant to Chapter 56, the Seller/Servicer must meet the document custody requirements of Section 18.7 and Section 56.9, including the transfer of the Notes from the Transferor Servicer's Document Custodian to the Transferee Servicer's Document Custodian.

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**(e) Obtaining documents**

Seller/Servicers may need to request the Note or other documents held by a Document Custodian to take appropriate action in conjunction with the payoff, foreclosure, repurchase substitution, conversion, modification or assumption of a Mortgage or the recordation of the assignment of a Security Instrument to Freddie Mac.

- To obtain a Note and/or other documents from the Designated Custodian, the Seller/Servicer must make an electronic request ("Web Release Request") using the Designated Custodian's Web portal. Contact the Designated Custodian for further information **(see Directory 4)**. Unless the related Mortgage was repurchased or paid in full, the Seller/Servicer must promptly return the Note and documents when they are no longer required for servicing to the Designated Custodian. Seller/Servicers using the Designated Custodian's internet website Asset Repository and Collateral System (ARK) to request release of Notes and other documents must include a copy of the 1036 Release Receipt Report when returning such items to the Designated Custodian. The Release Receipt Report can be electronically generated from the Designated Custodian's ARK web site.
- To obtain a Note and/or other documents from a Document Custodian other than the Designated Custodian, the Seller/Servicer must complete Form 1036, Request for Release of Documents, and send the form to the Document Custodian. Unless the related Mortgage was repurchased or paid in full, the Seller/Servicer must promptly return the Notes and documents and Form 1036 when they are no longer required for servicing to the Document Custodian.

Seller/Servicers must follow prudent business practices in protecting and safeguarding all Notes and documents released to them by the Document Custodian until these documents are returned to the Document Custodian. These practices include protection from external elements, such as fire, and identification as a Freddie Mac asset and segregation from other non-related documents.

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**REVISION HISTORY 07/20/12 [SHOW]**

## **18.6: Document Custodian's functions and duties (06/01/13)**

### **ARCHIVED VERSION**

#### **(a) General duties**

Each Document Custodian is responsible for:

1. Maintaining custody and control of the original Notes and assignments on behalf of Freddie Mac. If the Seller/Servicer delivers supplemental documents, such as original modifying instruments, the Document Custodian must place the supplemental documents with the related original Notes.
2. Holding the Notes and assignments in secure, fire-resistant facilities as described in Section 18.2(b)
3. Affixing the Freddie Mac loan number to the Note, if advised by the Seller/Servicer that Freddie Mac requires it. If the Note for a Mortgage contains the Freddie Mac loan number, changing the Freddie Mac loan number on a Note if advised in writing by the Seller/Servicer that Freddie Mac has changed the Freddie Mac loan number for the related Mortgage.
4. Making available for review by Freddie Mac (or its designee), at any time during normal business hours, with or without prior notice, the Notes and assignments and related storage facilities, maintenance and release procedures, and control and tracking mechanisms, and other evidence of compliance with eligibility requirements as requested
5. Making the custodial staff available for interview by Freddie Mac or its designee, at any time during normal business hours, with or without prior notice, for an assessment of the staff's familiarity with and adherence to Freddie Mac's custodial requirements and the Document Custodian's internal controls
6. Indemnifying Freddie Mac for such losses as may occur as a result of any negligence by the Document Custodian in the performance of its duties under the Guide pertaining to Notes and assignments held for Freddie Mac and Form 1035, Custodial Agreement: Single-Family Mortgages, and Form 1035DC, Designated Custodial Agreement: Single-Family Mortgages
7. Providing, in an electronic format acceptable to Freddie Mac, an accounting of all Notes held for Freddie Mac as described in Section 18.2(b)

Freddie Mac may, at any time, and in its sole discretion, require a Document Custodian to segregate the Notes it holds for Freddie Mac from those held for other investors.

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**(b) Verifications**

Upon receiving the Notes from the Seller/Servicer, the Document Custodian must verify that the following requirements have been met:

- Note: The information on each Note matches all corresponding information for the related Mortgage contained in the Freddie Mac Selling System ("Selling System"). The Document Custodian is not required to verify the Seller/Servicer number.
- Note endorsement: Each Note is endorsed as required by Section 16.4. If the Seller/Servicer delivering the Note is not the original payee on a Note, the Document Custodian must verify that the chain of endorsements is proper and complete from the original payee on the Note to the Seller delivering the Note to Freddie Mac — not to the Servicer.
- Assignments: The assignments of the Security Instruments from the original Mortgagee to the Seller/Servicer or to MERS<sup>®</sup> are prepared, executed and recorded where required, in accordance with Sections 22.14 and 56.7. The Seller/Servicer must provide its Document Custodian with any documentation necessary for the Document Custodian to determine whether the Seller/Servicer has elected to hold all assignments for Mortgages registered with MERS in the Mortgage files, as provided in Section 22.14.

**(c) Certification**

The Document Custodian must comply with the applicable requirements of the Purchase Documents whenever the Document Custodian is completing the certification process for Mortgages sold to Freddie Mac.

The Document Custodian consents to conduct Electronic Transactions, as defined in Chapter 3, with the Seller/Servicer and Freddie Mac in connection with its functions, duties and obligations under this Section 18.6 and Form 1035. In accordance with Form 1035, the Document Custodian adopts as its signature its Freddie Mac Document Custodian number. The Document Custodian must comply with the requirements of Chapter 3 as if each reference to the word "Seller/Servicer" were a reference to the "Document Custodian."

The Document Custodian must not execute the Custodian Certification if any of the information or documentation required to be verified does not match the specifications in Section 18.6(b) or if any discrepancy is not sufficiently justified. The Document Custodian must inform the delivering Seller/Servicer of any discrepancy for corrective action.

**(d) Duties to Freddie Mac**

Upon certification of the Notes and assignments, the Document Custodian must hold the Notes and assignments in trust for the sole benefit of Freddie Mac. The Document Custodian may not enter into any understanding, agreement, or relationship with any party by which any such party would obtain, retain or claim any interest (including an ownership or security interest) in such documents or the underlying Mortgages, unless otherwise specifically approved by Freddie Mac.

If the Document Custodian's facilities are affected by a disaster, the Document Custodian must notify Freddie Mac (**see Directory 9**) within 24 hours of the disaster.

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**(e) Release of documents to the Seller/Servicer**

The Seller/Servicer may require Notes and related documents in conjunction with the maturity, prepayment, foreclosure, repurchase, substitution, conversion, modification or assumption of a Mortgage or the recordation of the assignment of a Security Instrument to Freddie Mac.

The Document Custodian will release to the Seller/Servicer any Note and related documents in the Document Custodian's custody upon receiving from the Seller/Servicer a properly completed and executed Form 1036, Request for Release of Documents, (or its equivalent, each such form, a "Request for Release"), (or in the case of the Designated Custodian, a request via its web portal (see section 18.4(e)). To use an electronic or system-generated version of the Form 1036, the Seller/Servicer must enter into an agreement with the Document Custodian that:

- Defines electronic signatures and the type of electronic transmission permitted
- States the Document Custodian's requirements for accepting electronic signatures
- States the Seller/Servicer's requirements for maintaining and controlling access to electronic signature information
- Clearly assigns liability when the terms of the agreement are violated

In addition, the Seller/Servicer must provide, and the Document Custodian must retain, a list of the individuals designated to request the release of documents electronically. The list must be signed by an authorized officer of the Seller/Servicer and contain the notarized signatures of the designees.

An electronic or system-generated Form 1036 must contain all of the information required on the paper form. A single electronic form can be used to request multiple Notes provided that the Note list is attached.

See Section 18.6(g) for additional information on imaging and retention requirements. If a document is no longer needed for the reason originally cited on the request, the Seller/Servicer must return the Note and related documents and a copy of the Form 1036 to the Document Custodian, or return the Note and any other documentation required by the Designated Custodian, which will resume its custody and update its note tracking system to reflect receipt of the documents.

See Section 18.4(e) for additional information on returning documents to the Document Custodian or Designated Custodian. Seller/Servicers must follow prudent business practices in protecting and safeguarding all documents released to them while those documents are in their possession. These practices include protection from destructive elements, such as fire, identification as Freddie Mac assets, and segregation from other non-related documents.

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**(f) Imaging and retention requirements**

The Document Custodian must retain either the original or an imaged copy of each Form 1036 (or its equivalent, each such form, a "Request for Release") for at least three months after the date the Mortgage is paid off or the Note is returned to the Document Custodian. The Document Custodian need not retain a Form 1034E, or Note Delivery Cover Sheet, after the related Mortgages have been certified.

Imaged copies of the forms are permitted, provided that:

- Such copies were made in the regular course of business pursuant to Document Custodian's written policy
- Each imaged copy accurately reproduces or forms a durable medium for reproducing the original document
- There is equipment to view or read and to reproduce the imaged copies into legible documents at the location where the imaged copies are maintained

The Document Custodian may destroy:

- Original Certification Schedules after making imaged copies that meet the above criteria
- Requests for Release after making imaged copies that meet the above criteria and updating Document Custodian's note tracking system to indicate the date of release of the related documents and the reason for their release
- All original or imaged copies of Certification Schedules and Requests for Release after expiration of the retention period

In disposing of such documents, Document Custodian must have in place and follow procedures to ensure the confidentiality of Borrowers' private personal information and must use disposal methods that safeguard such confidentiality.

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**FUTURE REVISION 01/10/14 [SHOW]**

## **66.1: Introduction (10/01/11)**

### **ARCHIVED VERSION**

The Servicer must initiate foreclosure in accordance with this chapter only when there is no viable alternative to foreclosure. Additionally, Freddie Mac requires the Servicer to manage the foreclosure process to acquire clear and marketable title to the property in a cost-effective, expeditious and efficient manner.

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## **66.20: Obtaining the original Note (11/09/12)**

### **ARCHIVED VERSION**

If the original Note is needed to perform the foreclosure, the Servicer must request the Note from the Document Custodian holding the Note by submitting to the Document Custodian a completed Form 1036, Request for Release of Documents, or an electronic or system-generated version of the form (or, in the case of the Designated Custodian, a copy of the electronically generated 1036 Release Receipt Report) in accordance with the requirements of Section 18.4 (e).

If there is a full or partial reinstatement of the Mortgage, the Servicer must return the Note to the Document Custodian with either the original Form 1036 or a copy.

Before June 1, 2013, the designated counsel may request the Note from the Document Custodian holding the Note by submitting to the Document Custodian a completed Form 1036DC, Designated Counsel's Request for Release of Documents. The designated counsel may contact the Servicer to identify the Document Custodian holding the Note, and the Servicer must cooperate in providing the necessary information. In addition, the Servicer must pay any release fees and expenses required by the Document Custodian.

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**REVISION HISTORY 06/14/13 [HIDE]**

**REVISION NUMBER:** 06142013      **DATE:** 06/14/2013  
**REVISION REMARKS:** THIS CONTENT HAS CHANGED. CURRENT REQUIREMENTS APPEAR UNSHADED BELOW.

**66.17: Foreclosing in the Servicer's name (Effective: 06/14/13)**

**ARCHIVED VERSION**

The Servicer must instruct the foreclosure counsel to process the foreclosure in the Servicer's name.

If an assignment of the Security Instrument to Freddie Mac has been recorded, then the Security Instrument must be assigned back to the Servicer before the foreclosure counsel files the first legal action. Refer to Section 66.18 for an explanation of first legal action.

To have the Security Instrument assigned back to the Servicer, the Servicer must submit a completed assignment with a [Request for Assistance Form \(available at: http://www.freddiemac.com/cim/docex.html\)](http://www.freddiemac.com/cim/docex.html), to Freddie Mac (**see Directory 9**). Freddie Mac will [endeavor](#) to execute the assignment and return it to the Servicer within [10-12](#) Business Days of receiving the documents.

If the Servicer is foreclosing on a Mortgage registered with MERS®, the Servicer must prepare and execute (using the Servicer's employee who is a MERS authorized "signing officer") an assignment of the Security Instrument from MERS to the Servicer and instruct the foreclosure counsel to foreclose in the Servicer's name and take title in Freddie Mac's name according to the requirements of Section 66.54. The Servicer must record the prepared assignment where required by State law. State mandated recordings are non-reimbursable by Freddie Mac, are not considered part of the Freddie Mac allowable foreclosure counsel fees and must not be billed to the Borrower.

If the Mortgage is an FHA, Section 502 GRH or VA Mortgage, then the Servicer must follow FHA, Rural Housing Service (RHS) or VA guidelines to determine in whose name the foreclosure action should be brought.

Refer to Section 22.14 for additional information on Freddie Mac's requirements for assignments of the Security Instrument.

Related Guide Bulletins	Issue Date
Bulletin 2013-10	June 14, 2013

**REVISION HISTORY 06/01/13 [SHOW]**

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**REVISION HISTORY 06/13/12 [SHOW]**

**66.17: Foreclosing in the Servicer's name (10/18/13)****ARCHIVED VERSION**

The Servicer must instruct the foreclosure counsel to process the foreclosure in the Servicer's name. However, if applicable law precludes the Servicer from conducting the foreclosure in its name because it owns or services a subordinate Mortgage on the Mortgaged Premises, then the Servicer may instruct foreclosure counsel to conduct the foreclosure in Freddie Mac's name. Servicers do not need to obtain written approval (refer to Section 67.17 regarding initiating legal actions on Freddie Mac's behalf) but must notify Freddie Mac within two Business Days of the Servicer's determination to foreclose in Freddie Mac's name and record the basis of the decision in the Mortgage file. All notifications must be sent via e-mail (**see Directory 5**). When processing the foreclosure in Freddie Mac's name, all pleadings and related documents must comply with Section 67.17(c). The Servicer remains obligated to notify Freddie Mac pursuant to Section 69.12(a) in the event that any foreclosure conducted in Freddie Mac's name evolves into a non-routine litigation matter (see Section 67.17).

When a Servicer conducts the foreclosure in Freddie Mac's name, the Servicer is not permitted to have the same foreclosure counsel represent the Servicer or another lien holder in the same proceeding. Freddie Mac does not consent to dual representation of Freddie Mac and another lien holder on the same property.

If an assignment of the Security Instrument to Freddie Mac has been recorded, then the Security Instrument must be assigned back to the Servicer before the foreclosure counsel files the first legal action. Refer to Section 66.18 for an explanation of first legal action.

To have the Security Instrument assigned back to the Servicer, the Servicer must submit a completed assignment with a Request for Assistance Form (available at: **<http://www.freddiemac.com/cim/docex.html>**), to Freddie Mac (**see Directory 9**). Freddie Mac will endeavor to execute the assignment and return it to the Servicer within 10-12 Business Days of receiving the documents.

If the Servicer is foreclosing on a Mortgage registered with MERS<sup>®</sup>, the Servicer must prepare and execute (using the Servicer's employee who is a MERS authorized "signing officer") an assignment of the Security Instrument from MERS to the Servicer. The Servicer must record the prepared assignment where required by State law. State mandated recordings are non-reimbursable by Freddie Mac, are not considered part of the Freddie Mac allowable foreclosure counsel fees and must not be billed to the Borrower.

If the Mortgage is an FHA, Section 502 GRH or VA Mortgage, then the Servicer must follow FHA, Rural Housing Service (RHS) or VA guidelines to determine in whose name the foreclosure action should be brought.

Refer to Section 22.14 for additional information on Freddie Mac's requirements for assignments of the Security Instrument.

<b>Related Guide Bulletins</b>	<b>Issue Date</b>
Bulletin 2013-22	October 18, 2013
Bulletin 2013-10	June 14, 2013

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## **67.6: Introduction (11/09/12)**

### **ARCHIVED VERSION**

This part of the chapter provides Servicers with Freddie Mac's requirements for Servicing Mortgages subject to bankruptcy proceedings or litigation. The Servicer must take appropriate action to protect Freddie Mac's interest during bankruptcy proceedings in which the Borrower is the debtor or when there is litigation of either a routine or non-routine nature (Refer to Section 67.17 for information regarding routine and non-routine litigation).

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# EXIHIBIT 7

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documentation. Guide references to the Directory are indicated with a bolded parenthetical (e.g., “(see **Directory 5**)”).

## **1101.2: Legal effect of the Guide and other Purchase Documents (06/10/20)**

### **(a) Status as a contract**

#### **(i) Effect of the Guide and other Purchase Documents**

The Guide governs the business relationship between a Seller/Servicer and Freddie Mac relating to the sale and Servicing of Mortgages. Each Seller/Servicer must complete and submit a Form 16SF, Annual Eligibility Certification Report, that certifies that the Seller/Servicer has access to the Electronic version of the Guide as an Electronic Record, as those terms are defined in Chapter 1401, and is in compliance with all requirements of the Purchase Documents.

In connection with the sale of Mortgages to Freddie Mac, the Seller/Servicer agrees that each transaction is governed by the Guide, the applicable Purchase Contract and all other Purchase Documents.

A Seller/Servicer must service all Mortgages that the Seller/Servicer has sold to Freddie Mac and/or has agreed to service for Freddie Mac in accordance with the standards set forth in the Seller/Servicer's Purchase Documents. All of a Seller/Servicer's obligations to service Mortgages for Freddie Mac constitute, and must be performed pursuant to the Servicing Contract, and the servicing obligations assumed pursuant to any contract to sell Mortgages to Freddie Mac merged into, and must be performed pursuant to, such Servicing Contract.

A Seller/Servicer acknowledges that Freddie Mac's agreement to purchase Mortgages from the Seller/Servicer pursuant to any individual Purchase Contract is based upon the Seller/Servicer's agreement that the Mortgages purchased will be serviced by the Seller/Servicer pursuant to the Servicing Contract. The Seller/Servicer agrees that any failure to service any Mortgage in accordance with the terms of the Servicing Contract, or any breach of any of the Seller/Servicer's obligations under any aspect of the Servicing Contract, shall be deemed to constitute a breach of the entire contract and shall entitle Freddie Mac to terminate all or a portion of the Servicing Contract and any related Servicing Contract Rights. The termination of a portion of the Servicing Contract shall not alter the unitary, indivisible nature of the Servicing Contract.

If a Servicer that services Mortgages for Freddie Mac is not also the Seller of the Mortgages to Freddie Mac, the Servicer must agree to service Mortgages for Freddie Mac by separate agreement, which incorporates the applicable Purchase Documents. In such

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case, the separate agreement shall be deemed to be one of the “Purchase Documents” that constitute the Servicing Contract.

In addition, in certain cases, a Seller and/or Servicer who uses certain Freddie Mac services will, by virtue of the provisions of the Guide, be deemed to have agreed upon certain terms and conditions related to such services and their use.

## **(ii) Amendments to the Guide**

Freddie Mac may, in its sole discretion, amend or supplement the Guide from time to time. Amendments to the Guide may be a paper Record or an Electronic Record, as those terms are defined in Chapter 1401. The Guide may not be amended orally. Freddie Mac may amend the Guide by:

- Publishing Bulletins, which apply to all Sellers/Servicers, or
- Entering into a Purchase Contract or other written or Electronic agreement, which applies to the Seller/Servicer that is a party to the Purchase Contract or agreement

Bulletins expressly amend, supplement, revise or terminate specific provisions of the Guide. An amendment, supplement, revision or termination of a provision in the Guide is effective as of the date specified by Freddie Mac in the applicable Bulletin.

A Purchase Contract or other written agreement or Electronic agreement amends or supplements specific provisions of the Guide for purposes of such Purchase Contract or other agreement, as applicable. Such amendments or supplements to the Guide are effective as of the date specified in the Purchase Contract or other agreement. See Section 1501.2(d) for information about how amendments and supplements to the Guide amend or otherwise apply to a Seller’s Purchase Contracts and other Purchase Documents.

See also Section 1301.9 relating to the Servicer’s agreement to comply with any instruction, request or requirement issued by Freddie Mac and Section 9102.1(f) concerning Freddie Mac’s right to impose on a Servicer additional Servicing requirement as Freddie Mac deems appropriate.

## **(iii) Publication of Guide and Bulletins**

The Guide is posted on the AllRegs® web site of Ellie Mae, Inc., which operates the AllRegs brand (“AllRegs”) and which posts the Guide under license from and with the express permission of Freddie Mac. AllRegs is the exclusive third-party electronic publisher of the Guide. Seller/Servicers also can access the Guide on the AllRegs web site by using the link on FreddieMac.com.

Freddie Mac makes no representation or warranty regarding availability, features or functionality of the AllRegs web site.

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By using the web site, Seller/Service providers acknowledge and agree (individually and on behalf of the entity for which they access the Guide) neither Freddie Mac nor AllRegs shall be liable to them (or the entity for which they access the Guide) for any losses or damages whatsoever resulting directly or indirectly from Freddie Mac's designation of the Guide as found on the AllRegs web site as the official Electronic version, as an Electronic Record, and AllRegs expressly disclaims any warranty as to the results to be obtained by Seller/Service providers (and the entity for which Seller/Service providers access the Guide) from use of the AllRegs web site, and AllRegs shall not be liable to Seller/Service providers (and the entity for which Seller/Service providers access the Guide) for any damages arising directly or indirectly out of the use of the AllRegs web site by them (and the entity for which they access the Guide).

Bulletins are published on AllRegs and FreddieMac.com. A Seller/Service provider with an AllRegs subscription may receive notice of Bulletins directly from AllRegs. If a Seller/Service provider does not receive notice of Bulletins through AllRegs, the Seller/Service provider must take the steps necessary to receive the applicable Freddie Mac Single-Family Update e-mails, which will notify Seller/Service provider of Bulletin publications. A Seller/Service provider's failure to take the appropriate steps to receive notices of Bulletins does not relieve the Seller/Service provider of its legal obligations to comply with the terms of the Bulletins.

#### **(iv) Effective Date**

The effective date of each section of the Guide is located at the beginning of each section, to the right of the section number and name.

#### **(b) Reliance**

By entering into a Purchase Contract or into the Servicing Contract with Freddie Mac, the Seller/Service provider acknowledges that it is not relying upon Freddie Mac or any employee, agent or representative thereof, in making its decision to enter into the contract and that it has relied upon the advice and counsel of its own employees, agents and representatives as to the regulatory, business, corporate, tax, accounting and other consequences of entering into and performing its obligations under a Purchase Contract or the Servicing Contract.

#### **(c) Assignments; security interests**

For purposes of this subsection (c), the following terms have the prescribed meanings set forth in Exhibit 33, Acknowledgment Agreement Incorporated Provisions:

- Acknowledgment Agreement
- Collateral
- Conveyance

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- Covered Mortgages
- Financing
- Financing Documents
- UCC

**(i) General prohibition**

A Seller/Servicer shall not enter into a Conveyance agreement or otherwise complete a Conveyance without Freddie Mac's prior written consent. Any purported or attempted Conveyance without Freddie Mac's prior written consent is prohibited and shall be null and void.

**(ii) Servicer request for Freddie Mac's consent to a Conveyance**

Notwithstanding the provisions of subsection (c)(i) above, Freddie Mac may consent to a Servicer's Conveyance. A Servicer may send an e-mail to Freddie Mac (**see Directory 1**) to request Freddie Mac's consent to a Conveyance, a copy of Freddie Mac's acknowledgment agreement applicable to such Conveyance and any additional Freddie Mac instructions for completing and executing the acknowledgment agreement, provided it includes the following information with its request:

- The purpose of the Financing
- A term sheet or draft Financing Documents; and
- Identification of the Covered Mortgages (e.g., all loans serviced under one or more Seller/Servicer number(s), a loan list that includes the Freddie Mac loan number, Servicer loan number and Seller/Servicer number for each loan in either CSV format or as an MS Excel<sup>®</sup> spreadsheet, etc.)

Freddie Mac reserves the right to request additional information and documents from the Servicer and its proposed Secured Party (as defined in the Acknowledgment Agreement) concerning the terms and conditions of the Financing. Freddie Mac may require revisions to the Financing Documents and other elements of the Financing as a condition to its consent to the proposed Financing.

For an overview of the operational process related to requesting and obtaining Freddie Mac's consent to a Conveyance, Servicers should review the *Financing Freddie Mac Servicing Contract Rights – Process Overview* available at <http://www.freddiemac.com/learn/service/index.html>.

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### **(iii) Freddie Mac consent to a Conveyance**

If Freddie Mac consents to a Conveyance, it will indicate its consent only by executing a tri-party Acknowledgment Agreement, which also must be executed by the Servicer and its Secured Party, in a form and substance acceptable to Freddie Mac. All Acknowledgment Agreements must include the following language:

This Acknowledgment Agreement incorporates the provisions of Section 1101.2(c)(iii) and the provisions of Guide Exhibit 33 by reference and such provisions are a substantive contractual part of this Acknowledgment Agreement such that the Servicer and the Secured Party expressly agree (i) that Guide Section 1101.2(c)(iii) is operative as to Servicer and its Secured Party and (ii) each of Servicer and its Secured Party are bound by the terms and conditions set forth in Guide Section 1101.2(c)(iii) and Guide Exhibit 33.

A Servicer's grant to a Secured Party of a security interest in the Servicing Contract Rights, as more specifically defined in the Acknowledgment Agreement, (i) is subject and subordinate in each and every respect to all rights, powers, and prerogatives of Freddie Mac, and (ii) may be made only for a purpose as set forth in Exhibit 33 and any other purpose as specified in the Freddie Mac Acknowledgment Agreement provided to the Servicer. Any purported or attempted grant of a security interest in any other rights or interest of the Servicer under the Servicing Contract, or for the purpose of securing any other type of obligation, is prohibited and shall be null and void. In addition, a Servicer's purported or attempted grant to a lender of a security interest in the Servicing Contract Rights without the Servicer and the lender also having executed an Acknowledgment Agreement acceptable to, and executed by, Freddie Mac is prohibited and shall be null and void.

The Collateral encumbered by the Secured Party's security interest must not include (i) servicing advance reimbursement rights, (ii) Borrower payments of principal, interest, or Escrow Funds, (iii) the right to perform Servicing, (iv) the right to designate who may perform the Servicing, (v) the right to terminate the Servicer or the Servicing Contract, or (vi) the right to transfer any of the Collateral. No Financing transaction shall be construed as a division of the Servicing Contract Rights.

A Servicer may make a separate request to Freddie Mac for consent to enter into a financing transaction secured by advance reimbursement rights, defined as an Advance Financing pursuant to Section 9701.23 and Exhibit 103. In no event shall any Advance Financing be cross-collateralized with any Collateral under any Servicing Contract Rights Financing. Any Collateral under any Servicing Contract Rights Financing is and will continue to be at all times separate and distinct from any and all collateral under any Advance Financing.

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**(iv) Unauthorized Conveyances**

Any unauthorized Conveyance constitutes grounds for suspension (to the extent such Secured Party is a Freddie Mac Seller/Servicer) or disqualification of both the Seller/Servicer and the purported Secured Party as Seller/Servicers. In addition, Freddie Mac may exercise any of its other rights under the Purchase Documents. An unauthorized Servicer's Conveyance without Freddie Mac's written consent as set forth in an Acknowledgment Agreement consistent with the requirements of this section and Exhibit 33 will result in the assessment of a compensatory fee determined by Freddie Mac not to exceed 1% of Freddie Mac's share of the UPB of the Mortgages that were related to the unauthorized Conveyance. The imposition of this compensatory fee does not limit Freddie Mac's rights to exercise any of its other rights under the Purchase Documents including, but not limited to, suspension (to the extent such Secured Party is a Freddie Mac Seller/Servicer) or disqualification of both the Seller/Servicer and its purported Secured Party as Seller/Servicers. If an unauthorized Conveyance occurs, the Servicer and purported Secured Party, to the extent such Secured Party is a Freddie Mac Seller/Servicer, are jointly and severally liable to Freddie Mac with respect to any losses, costs and damages (including, but not limited to, attorney fees and related court and legal costs) incurred by Freddie Mac arising out of or related to the unauthorized Conveyance. In the event that the Secured Party involved in an unauthorized Conveyance is not a Freddie Mac Seller/Servicer, Freddie Mac reserves the right to add such Secured Party to the Freddie Mac Exclusionary List per Section 3101.1.

**(v) Freddie Mac's rights to assign its rights and interests**

Freddie Mac has the unconditional right to sell, assign, convey, hypothecate, pledge or in any way transfer, in whole or in part, its rights and interest under the Purchase Documents with respect to any Mortgage it purchases. Freddie Mac has the right to direct the Servicer to send remittances, notices, reports and other communications to any party designated by Freddie Mac and may designate any such party to exercise any and all of Freddie Mac's rights hereunder.

**(d) Notice**

**(i) Seller/Servicer notices to Freddie Mac**

Except as otherwise provided in the Guide or other Purchase Documents, any communication, advice, consent, document, notice or direction given, made, sent or withdrawn by the Seller/Servicer pursuant to the Purchase Documents must be in writing and will be deemed to have been duly given to and received by Freddie Mac on the day such communication, advice, consent, document, notice or direction is actually received by Freddie Mac at the address specified below:

Address: In writing to Freddie Mac (**see Directory 1**) by first class mail

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Other addresses may be substituted for the above upon notice of the substitution.

## **(ii) Freddie Mac notices to Seller/Servicer**

Any communication, advice, consent, document, notice or direction given, made, sent or withdrawn by Freddie Mac pursuant to the Purchase Documents may be in writing or may be in electronic form in accordance with Chapter 1401. Such notice will be deemed to have been duly given to the Seller/Servicer on the date such communication, advice, consent, document, notice or direction is:

- Received in writing by first class mail by the Seller/Servicer at the address set forth in the Purchase Documents, or
- Received in electronic form (e-mail) as an Electronic Record by the Seller/Servicer's computer information processing system at its Internet e-mail address provided to Freddie Mac by the Seller/Servicer, or
- Received in electronic form (facsimile) as a Record or Electronic Record by the Seller/Servicer's electronic facsimile machine or system at the facsimile telephone number provided to Freddie Mac by the Seller/Servicer

Other addresses may be substituted for the above upon notice of the substitution.

## **(e) Severability**

If any provision of this Guide shall be held invalid, the legality and enforceability of all remaining provisions shall not in any way be affected or impaired thereby, and this Guide shall be interpreted as if such invalid provision were not contained herein.

## **(f) Defined terms**

Initial capitalization of words in the Guide generally denotes terms that are defined in (i) the Glossary, (ii) the chapter in which capitalized words appear, or (iii) an expressly referenced chapter.

## **(g) Construction of the Guide**

This Guide shall not be construed against Freddie Mac as being the drafter hereof.

## **(h) Entire agreement**

This Guide, including the exhibits attached to the Guide and all Purchase Documents incorporated by reference in the Guide, constitutes the entire understanding between Freddie Mac and the Seller/Servicer and supersedes all other agreements, covenants, representations, warranties, understandings and communications between the parties, whether oral or written or Electronic, with respect to the transactions contemplated by the Guide.

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agency in writing before any disclosure that the information is Freddie Mac confidential information.

#### **(b) Treatment of Seller/Servicer confidential information**

In response to Freddie Mac's request, Seller/Servicer may provide Freddie Mac with the following information and documentation that Seller/Servicer identifies as confidential (collectively, "Seller/Servicer confidential information"):

- information regarding Seller/Servicer's financial condition
- Seller/Servicer's responses to Freddie Mac's security questionnaire
- information about Seller/Servicer's information security policies; and
- information in Seller/Servicers' SOC-1 or SOC-2 report and other third-party audit reports

Seller/Servicer confidential information does not include information that is publicly available, provided to us by a third party that is not to Freddie Mac's knowledge itself under an obligation to keep the information confidential or independently developed.

Freddie Mac may use Seller/Servicer confidential information for the purposes for which the information was provided to Freddie Mac and for other internal business purposes (the "Freddie Mac Purposes"). Freddie Mac will exercise at least the same degree of care to preserve the confidentiality of Seller/Servicer confidential information that Freddie Mac exercise to protect its own information of a similar level of sensitivity, but in no event less than a reasonable degree of care. Freddie Mac may disclose Seller/Servicer confidential information as necessary or appropriate for the Freddie Mac Purposes. Freddie Mac also may disclose it to the extent ordered by a court or agency of competent jurisdiction, as long as (i) if legally permissible, Freddie Mac promptly notifies Seller/Servicer of the order and provide it with a reasonable opportunity to respond in such manner as it deems appropriate to limit the disclosure, and (ii) Freddie Mac notifies the court or agency in writing before any disclosure that the information is Seller/Servicer confidential information. Freddie Mac also may disclose Seller/Servicer confidential information to the FHFA or Freddie Mac's other regulators without regard to the requirements of the preceding sentence.

## **1201.9: The Mortgage file, Mortgage data and related records (10/09/19)**

#### **(a) Ownership**

All documents in the Mortgage file, all data related to Mortgages owned or guaranteed by Freddie Mac to which the Servicer obtains access in connection with any agreement with



Freddie Mac, including, without limitation, data in the documents in the Mortgage file (collectively, Mortgage data) and all other documents and records related to the Mortgage of whatever kind or description (whether prepared or originated by the Servicer or others, or whether prepared or maintained or held by the Servicer or others acting for and on behalf of the Servicer), including all current and historical computerized data files, will be, and will remain at all times, the property of Freddie Mac. All of these records and Mortgage data in the possession of the Servicer are retained by the Servicer in a custodial capacity only.

#### **(b) Permitted use of Mortgage data**

The Servicer may use these records and Mortgage data only for the following purposes:

- Servicing Mortgages (and, in compliance with the provisions of the Guide, retaining subservicers to service Mortgages) on behalf of, and in the interest of, Freddie Mac
- As background information for the Servicer's use related to marketing or cross-selling of the Servicer's own primary market products and services in compliance with applicable laws, provided that such marketing and cross-selling does not involve disclosure of these records or Mortgage data to any third parties, other than vendors assisting the Servicer in its marketing activities who are themselves bound by these requirements
- As necessary to enable a vendor to provide analytic services to the Servicer with respect to the Servicer's Servicing portfolio, for the Servicer's internal use only, provided the vendor is bound by these requirements, and
- As necessary to enable the Servicer to comply with its obligations under applicable law including, without limitation, any disclosures required in connection with audits by regulatory agencies with jurisdiction over the Servicer's operations

Except as expressly authorized by Freddie Mac in writing, Servicers may not use or disclose, or authorize or permit third parties to use or disclose, these records or Mortgage data for any other purpose including, without limitation, resale or licensing of Mortgage data, either alone or with other data. See Section 8101.7 [for additional information related to Freddie Mac audits and access to Mortgage records](#) and Section 8101.8 for additional requirements related to confidentiality.

## **1201.10: Minority-Owned, Women-Owned and Disabled-Owned Business Enterprises (03/02/16)**

It is Freddie Mac's policy to provide, to the maximum extent possible in balance with financially safe and sound business practices, the opportunity for Minority-Owned, Women-Owned and Disabled-Owned Business Enterprises to compete fairly as suppliers, ~~contractors~~ and subcontractors in Freddie Mac's business activities, taking into account both price and quality.

## **1301.9: Servicer agreements (06/12/19)**

In addition to general warranty statements elsewhere in this Guide, the Servicer agrees that, in Servicing Mortgages and REO for Freddie Mac, the Servicer will:

- Comply with the Purchase Documents and any instruction, request or requirement issued by Freddie Mac
- Abide by Freddie Mac's decision with respect to any of the Mortgages or REO
- Hold Freddie Mac harmless for any loss the Servicer may suffer from any decision made by Freddie Mac with respect to any of the Mortgages or REO
- Reimburse Freddie Mac for any expenses (including court costs and reasonable attorney fees) incurred by Freddie Mac, at its sole discretion, in remedying or correcting any failure of the Servicer to service a Mortgage or REO in accordance with the requirements of the Purchase Documents
- Reimburse Freddie Mac for any costs incurred by Freddie Mac as a result of a Servicer's delays in meeting the foreclosure or bankruptcy timelines when the delay results from any failure of a Seller/Servicer to originate a Mortgage or service a Mortgage or REO in accordance with the requirements of the Purchase Documents; such costs to be determined in Freddie Mac's sole discretion.

## **1301.10: Survival of warranties; remedies (03/02/16)**

The warranties and representations in the Purchase Documents for any Mortgage purchased by Freddie Mac survive payment of the purchase price by Freddie Mac. The warranties and representations are not affected by any investigation made by, or on behalf of, Freddie Mac, except when expressly waived in writing by Freddie Mac.

When any party has purchased a Mortgage from Freddie Mac that Freddie Mac previously purchased from a Seller, Freddie Mac may exercise any rights or remedies at law or in equity on behalf of the party to the extent that the party does not affirmatively do so. Freddie Mac may also exercise its discretion to disqualify or suspend a Seller or a Servicer pursuant to Chapter 2301 or Section 9102.1.

For each Mortgage purchased by Freddie Mac, the Seller and the Servicer agree that Freddie Mac may, at any time and without limitation, require the Seller or the Servicer, at the Seller's or the Servicer's expense, to make such endorsements to and assignments and recordings of any of the Mortgage documents so as to reflect the interests of Freddie Mac and/or its successors and assigns.

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## 3302.5: Transfer of **Mortgage** files; security of **Mortgage** file information (05/01/20)

Freddie Mac may at any time require the Servicer to deliver the following documents to a Document Custodian approved by Freddie Mac or a transferee designated by Freddie Mac:

- Any original Note, Security Instrument, assignment and modifying instrument still in the Servicer's custody
- Any Mortgage file, document within a Mortgage file or other related documents and records in the Servicer's or its Document Custodian's custody, whether maintained as originals or as copies in accordance with Section 3302.2

The Servicer may, without Freddie Mac's prior approval, entrust custody of all or part of the Mortgage file to the Document Custodian holding Notes and assignments under Section 2202.2. When requested, the Servicer must be able to identify to Freddie Mac those file items held by the Document Custodian and document to Freddie Mac the Document Custodian's acknowledgment that such file items:

- Are Freddie Mac's property
- Will be maintained by the Document Custodian according to standards at least equal to those set in this chapter
- Will be maintained in such a way as to ensure the security and confidentiality of the information; protect against anticipated threats or hazards to the security or integrity of the information; and protect against unauthorized access to or use of such information
- Will be surrendered to Freddie Mac at any time Freddie Mac may request them

The Servicer agrees to indemnify Freddie Mac and hold Freddie Mac harmless for any loss, damage or expense (including court costs and reasonable attorney fees) that Freddie Mac may incur as a result of the Document Custodian's holding all or part of the Mortgage file.

The Servicer must maintain a copy (in a form allowable under Section 3302.2) of any original document that has been entrusted to the Document Custodian for safekeeping.

If all or part of the Mortgage file is held by the Servicer's Document Custodian, the Servicer agrees to recover from the Document Custodian (at the Servicer's expense) and provide to Freddie Mac (at the place and within the time frame specified by Freddie Mac) any Document Custodian-held original document requested by Freddie Mac for the postfunding quality control detailed in Chapter 3301 or in conjunction with a Freddie Mac desktop or on-site review of the Servicer's Servicing operations.

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The Seller need not submit a modifying instrument that by its terms ceases to be effective upon purchase of the modified Mortgage by Freddie Mac.

## **6301.6: Assignment of Security Instrument (10/09/17)**

The Seller/Servicer is not required to prepare an assignment of the Security Instrument to Freddie Mac. However, Freddie Mac may, at its sole discretion and at any time, require a Seller/Servicer, at the Seller/Servicer's expense, to prepare, execute and/or record assignments of the Security Instrument to Freddie Mac.

If an assignment of the Security Instrument to Freddie Mac has been prepared, the Seller/Servicer must not record it unless directed to do so by Freddie Mac. Any statement in the assignment to the effect that the assignment is made without recourse will in no way affect the Seller/Servicer's repurchase obligations under the Purchase Documents.

For transfer or assignment of Freddie Mac's interest in the Mortgage, the Seller/Servicer shall prepare at its own expense any assignment necessary to transfer the Security Instrument to Freddie Mac's assignee, designee or transferee.

Intervening Assignments must be prepared in accordance with the requirements of this section.

NOTE: Special provisions for preparing assignments for Mortgages secured by Manufactured Homes located in certificate of title States where there is no provision for surrender and cancelation of the certificate of title are set forth in Section 5703.7(c), paragraph 3. Mortgages secured by Manufactured Homes located in certificate of title States where there is no provision for surrender and cancelation of the certificate of title may not be registered with MERS®.

### **(a) Mortgages not registered with MERS**

For a Mortgage not registered with MERS, the Seller/Servicer must ensure that the chain of assignments is complete and recorded from the original mortgagee on the Security Instrument to the Seller. If the Seller concurrently or subsequently transfers the Servicing, an assignment to the new Servicer must be completed and recorded where required, thus keeping the chain complete.

If a State does not accept assignments for recordation, the Seller must so state in an affidavit maintained with the unrecorded assignment.

### **(b) Mortgages registered with MERS**

For a Mortgage registered with MERS, if MERS is not the original mortgagee of record, the Seller/Servicer must ensure that:

- An assignment of the Security Instrument to MERS has been prepared, duly executed and recorded in all places necessary to perfect a First Lien security interest in the Mortgaged Premises in favor of MERS, solely as nominee for the lender named in the Security

Instrument and the Note, and the lender's successors and assigns. Mortgages subsequently assigned to MERS in the States of Montana, Oregon and Washington are not eligible for sale to Freddie Mac.

- The chain of assignments is complete and recorded from the original mortgagee to MERS

If the Seller/Servicer concurrently or subsequently transfers the Servicing of a Mortgage registered with MERS, no further assignments are required if the Transferee Servicer is a MERS Member. If the Transferee Servicer is not a MERS Member, or if the Mortgage has not been, or is no longer, registered with MERS, the Seller/Servicer must complete the assignments in accordance with the requirements in Section 6301.6(a).

**(c) Mortgages registered with MERS naming MERS as original mortgagee of record**

No assignments are required for a Mortgage registered with MERS if:

- The Mortgage is originated naming MERS as the original mortgagee of record, solely as nominee for the lender named in the Security Instrument and the Note, and the lender's successors and assigns, and
- The Seller/Servicer has ensured that the Security Instrument is properly executed, acknowledged, delivered and recorded in all places necessary to perfect a First Lien security interest in the Mortgaged Premises in favor of MERS, solely as nominee for the lender named in the Security Instrument and the Note, and the lender's successors and assigns

**(d) Concurrent Transfers of Servicing**

If the Mortgage is registered with MERS, and the Transferee Servicer is not a MERS Member, then the requirements for Mortgages not registered with MERS must be followed.

For a Concurrent Transfer of Servicing when a Mortgage is registered with MERS:

- The **Seller** must notify MERS of the Transfer of Servicing and reflect such Transfer of Servicing on the MERS System
- The Transferee Servicer must follow the document custodial procedures in Section 7101.9, and deliver the assignments to the Transferee Document Custodian to be verified and certified in accordance with the requirements of Section 6304.2, unless the Transferee Servicer has elected to retain all assignments for MERS-registered Mortgages in the Mortgage files. The Transferee Servicer must also supply its Document Custodian with any documentation necessary for the Document Custodian to determine whether the Seller/Servicer has elected to hold all assignments in the Mortgage files.

For a Concurrent Transfer of Servicing when a Mortgage is not registered with MERS:

- The Seller must record any Intervening Assignments to complete the chain of assignments from the original mortgagee to the Seller, in accordance with Section 6301.6(a)
- The **Seller** must then assign the Security Instruments to the Transferee Servicer and record the assignments
- The Transferee Servicer must follow the document custodial procedures set forth in Section 7101.9, and deliver the assignments to the Transferee Document Custodian, to be verified and certified in accordance with the requirements of Section 6304.2

Special provisions for Concurrent Transfers of Servicing of Mortgages secured by Manufactured Homes located in certificate of title States where there is no provision for surrender and cancelation of the certificate of title are set forth in Section 5703.7(c), paragraph 3.

## **6301.7: Accuracy and preparation of Mortgage data submitted (03/02/16)**

The Seller warrants that the Mortgage data provided are true, complete and accurate. Erroneous data or omissions discovered may result in rejection of the Mortgage(s) involved when discovered before purchase or repurchase of the Mortgage(s) involved when discovered after purchase.

The essential accounting data for each Mortgage must agree with the underlying documents and the Seller's individual mortgagor accounting records.

Freddie Mac purchases Mortgage balances as reflected in the Seller's individual Mortgage accounts. The records or accounts used for Mortgages to be sold to Freddie Mac must be updated within 10 days before delivery of Mortgage documents to Freddie Mac (**see Directory 8**).

Using the most recent Mortgage trial balance or updated Mortgage records, the Seller must indicate the UPB and provide the remaining information required by Chapter 6302. It should not be assumed that payments due as of or before the date the balances are taken from the detailed Mortgage record have been paid. An installment that was due as of or before the date the balances are taken from the individual Mortgage records, but is unpaid, is considered delinquent. For example, a payment that was due on the first of a month, and is unpaid on the second or thereafter, is delinquent for this purpose.

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- Forecasted scheduled interest reported in the month before the Effective Date of Transfer that is due to Freddie Mac in the month of the transfer
- Principal reported in the Accounting Cycle immediately preceding the Effective Date of Transfer (e.g., principal reported between the P&I Determination Date and the end of the Accounting Cycle of the month immediately preceding the Transfer of Servicing)

Freddie Mac will draft the applicable amounts from the Transferor Servicer.

All of the following must be reported by, and will be drafted from, the Transferee Servicer:

- Payoffs for which the payoff date is on or after the Effective Date of Transfer
- Third-party foreclosure sales for which the sale date is on or after the Effective Date of Transfer
- Principal and interest reported on or after the Effective Date of Transfer

Freddie Mac will draft the applicable amounts from the Transferee Servicer.

## 7101.6: Endorsement of Notes and assignment of Security Instruments for Mortgages in Transfers of Servicing (11/01/20)

The Notes for Mortgages sold to Freddie Mac are endorsed in blank in accordance with Section 6301.3. When a Transfer of Servicing occurs, the Transferor Servicer must prepare and complete assignments of the Security Instrument described below, but may not complete the blank endorsement on the Note or further endorse it. LNAs are not 'live' Notes and cannot be endorsed under any circumstance.

### (a) Concurrent Transfers of Servicing for Mortgages not registered with MERS®

For Concurrent Transfers of Servicing, for each Mortgage that is not registered with MERS, the Transferor Servicer must:

- Record Intervening Assignments to complete the chain of assignments to it from the original mortgagee, in accordance with Section 6301.6(a)
- Assign the Security Instrument to the Transferee Servicer and record the assignment

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- Follow the procedures set forth in Section 7101.9 and deliver the assignment to the Transferee Servicer's Document Custodian to be verified in accordance with the requirements of Section 6304.2

See Section 6301.6(a) for additional information.

**(b) Concurrent or Subsequent Transfers of Servicing for Mortgages registered with MERS**

For Subsequent Transfers of Servicing, for each Mortgage that is registered with MERS:

- If the **Transferee Servicer is a MERS Member**, no further assignment is needed and The Transferor Servicer must notify MERS of the Transfer of Servicing.
  - ❑ If the **Transferee Servicer is not a MERS Member**, then the Transferor Servicer must prepare and record an assignment of the Security Instrument (on behalf of MERS) from MERS to the Transferee Servicer
  - ❑ The Transferor Servicer must follow the procedures set forth in Section 7101.9, and deliver the assignment to the Transferee Servicer's Document Custodian to be verified and certified in accordance with the requirements of Section 6304.2

See Section 6301.6(b) for additional information.

**(c) Subsequent Transfers of Servicing for Mortgages not registered with MERS**

For Subsequent Transfers of Servicing of Mortgages that are not registered with MERS, the Transferor Servicer must:

- Recover and destroy any original unrecorded assignments to Freddie Mac
- Assign the Security Instrument to the Transferee Servicer and record the assignment
- Follow the procedures set forth in Section 7101.9, and deliver assignment(s) to the Transferee Document Custodian to be verified in accordance with the requirements of Section 6304.2

If the most recent assignment of the Security Instrument is to Freddie Mac and that assignment was recorded, the Transferor Servicer may not prepare an assignment to the Transferee Servicer.

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- Notify all other appropriate parties including, but not limited to, mortgage life and/or accident and health insurers, tax verification/reporting and flood zone hazard determination services, tax authorities, condominium associations, homeowners associations (HOAs), Cooperative Corporations (see Chapter 8801 for special Servicing requirements for Cooperative Share Loans), fee owners for leasehold Mortgages, other lienholders and public utilities levying assessments for which Escrow is collected

## 7101.15: Liabilities of the Transferor Servicer and Transferee Servicer (09/02/20)

### (a) Warranties

Except as stated in the following paragraph, for Transfer of Servicing requests received by Freddie Mac, the Transferee Servicer, by **executing** Form 960, Agreement for Concurrent Transfer of Servicing of Single-Family Mortgages, **or by** electronically signing the Agreement for Subsequent Transfer of Servicing of Single-Family Mortgages (“STOS Agreement”) in Freddie Mac Servicing Transfer Manager (see Exhibit 88, Servicing Tools), is liable to Freddie Mac for all Seller and any prior Servicer’s duties, obligations, responsibilities, representations, covenants, warranties, agreements and related liabilities in the Purchase Documents with respect to the Mortgages related to the Transfer of Servicing, whether or not the Transferor Servicer had such liability. The Transferee Servicer’s assumption of such rights, duties, obligations, responsibilities, representations, covenants, warranties, agreements and related liabilities upon the Effective Date of Transfer does not release the Transferor Servicer, any prior Servicer, or the original Seller of their duties, obligations, responsibilities, representations, covenants, warranties, agreements and related liabilities with respect to the Mortgages and REO related to the Transfer of Servicing, all such parties’ liability being joint and several with the Transferee Servicer. However, a Transferor Servicer does not assume such liability for Servicing violations occurring in all respects on or after the Effective Date of Transfer and based solely and directly upon the actions or omissions of later Transferee Servicers.

#### ***Mortgages sold through Gold Cash Xtra® and Cash-Released XChange<sup>SM</sup> that are related to a Concurrent Transfer of Servicing***

For Mortgages sold through Gold Cash Xtra® and Cash-Released XChange<sup>SM</sup>, the Seller remains solely liable to Freddie Mac for all sale representations, covenants and warranties in the Purchase Documents (sale representations and warranties) with respect to the Mortgages related to the Transfer of Servicing. The Transferee Servicer is liable to Freddie Mac for all Servicing duties, obligations, responsibilities, representations, covenants, warranties, agreements and related liabilities in the Purchase Documents with respect to the Mortgages related to the Transfer of Servicing. For subsequent Transfers of Servicing of such Mortgages:

- The Seller Transferor remains solely liable to Freddie Mac for all sale representations and warranties with respect to the Mortgages related to the Transfer of Servicing; and
- The subsequent Transferee Servicer is liable to Freddie Mac for all Servicing duties, obligations, responsibilities, representations, covenants, warranties, agreements and related liabilities in the Purchase Documents with respect to the Mortgages and REO related to the Transfer of Servicing, but the Transferee Servicer's assumption of these duties, obligations, responsibilities, representations, covenants, warranties, agreements and related liabilities upon the Effective Date of Transfer does not release the subsequent Transferor Servicer or any prior Servicer of their duties, obligations, responsibilities, representations, covenants, warranties, agreements and related liabilities with respect to the Mortgages related to the Transfer of Servicing, their liability being joint and several with the Transferee Servicer. However, a Transferor Servicer does not assume such liability for Servicing violations committed by the Transferee Servicer or any subsequent Transferee Servicer occurring in all respects after the Effective Date of Transfer and based solely and directly upon the actions or omissions of later Transferee Servicers.

Note: For provisions applicable to the Concurrent Transfer of Servicing rights of Mortgages sold to Freddie Mac through Gold Cash Xtra, see Exhibit 28, Loan Servicing Purchase and Sale Agreement.

**(b) Hold harmless**

The Transferor Servicer and the Transferee Servicer, jointly and severally, fully indemnify and agree to hold Freddie Mac, its successors and assigns, harmless from and against any and all losses, claims, demands, actions, suits, damages, costs and expenses (including reasonable attorney fees) of every nature and character that may arise or be made against or be incurred by Freddie Mac as a result of the Transferor Servicer's or the Transferee Servicer's failure to comply with applicable law or failure to comply with Freddie Mac's Servicing requirements as set forth in the Purchase Documents, including, but not limited to failure to provide the notices required by Section 7101.14, failure to make any payment to the appropriate parties for which Escrow is collected and failure to credit properly any payments received from Borrowers.

**(c) Servicing**

By **executing** Form 960 **or** electronically signing the STOS Agreement, the Transferee Servicer agrees to service the Mortgages **related to the Transfer of Servicing (e.g., such as those** set forth in the Final Mortgage List **(as defined in Section 7101.2(b))** in Servicing Transfer Manager) in accordance with the terms of the Servicing Contract.

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## **8105.3: Servicing obligations to be performed for the Servicing compensation (03/02/16)**

In consideration for the Servicing Spread, a Servicer is responsible for the performance of all of its Servicing obligations described in the Guide and other Purchase Documents for each of the Mortgages purchased by Freddie Mac. The Servicer's Servicing obligations compensated by the Servicing Spread include, among other things, undertaking all activities required to protect Freddie Mac's interest in the Mortgage in the event of a foreclosure of the property or a bankruptcy of the Borrower, such as:

- Preparing and delivering foreclosure and bankruptcy referrals to attorneys
- Providing all documents and information necessary for the attorneys to prosecute foreclosure or bankruptcy cases (including, but not limited to, missing documents such as Notes, title insurance policies, and Intervening Assignments)
- When necessary, paying for the preparation and recordation of missing documents, such as Intervening Assignments, necessary for the prosecution of foreclosure or bankruptcy cases
- Resolving any title issues that are the result of the Seller's or Servicer's action or inaction
- Managing attorneys, including but not limited to:
  - ❑ Collecting, receiving, processing, reviewing and paying attorneys' invoices
  - ❑ Supervising and providing necessary assistance to attorneys in the foreclosure and bankruptcy proceedings
  - ❑ Making available any monitoring, management, reporting, information and document delivery processes or systems, and paying the fees and costs for such processes or systems (refer to Section 9501.9 for information on connectivity and invoice processing systems)
- Continuing to work with the Borrower to resolve the delinquency through loss mitigation activities
- Handling the bankruptcy management activities specified in Chapter 9401

Nothing in the Guide is intended to prohibit a foreclosure or bankruptcy attorney from assisting a Servicer by working with a Borrower to facilitate a reinstatement of the Mortgage or loss mitigation activity.

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# Chapter 8107: Document Custody

## 8107.1: Servicer responsibilities related to document custody (11/01/20)

### (a) Delivery of **trailing documents** to **the Document Custodian**

Upon receiving a Mortgage document that is required to be held by a Document Custodian, such as a modifying instrument or an original document from a recording office, the Servicer must **promptly** deliver it to the Document Custodian holding the related Note.

### (b) **Requests for Release of documents**

Servicers may require possession of a Note to take action in conjunction with the payoff, foreclosure, repurchase, substitution, conversion, modification or assumption of a Mortgage or to take legal action, such as responding to a Borrower's bankruptcy, bringing or defending a lawsuit or other litigation relating to the maturity, prepayment, repurchase, substitution, conversion, modification, or assumption of a Mortgage, or a Freddie Mac Default Legal Matter (each such bankruptcy, suit, or litigation, a "Legal Action").

Servicers **often** require physical possession of a Note for Legal Actions. **Even if the Servicer needs only one document from the Note file, the Document Custodian will release the entire file because it is important to keep all the documents comprising the Note file together. In certain circumstances,** constructive possession, which can be obtained quickly, is legally sufficient to establish the Servicer as a "holder" of, or person entitled to enforce, the Note in a Legal Action. "Constructive possession" describes the situation in which someone controls an object without physically possessing it: in this context, a Servicer can control and direct a Note that is in the Document Custodian's vault. If constructive possession is appropriate for a Legal Action, the Servicer will automatically, immediately, and conclusively be deemed to **have** constructive possession of the Note from the earlier of the date that (i) the Legal Action commences or (ii) the Document Custodian receives the Servicer's request to release constructive possession of the Note until the Legal Action is concluded.

For physical possession, the Document Custodian will deliver the Note as directed by the Servicer. For constructive possession, the Document Custodian will promptly contact the Servicer by e-mail or otherwise when Document Custodian's tracking system has been updated to indicate the Servicer (rather than Freddie Mac) as the "owner" or "investor" of the related Mortgage. Upon **Document Custodian's release** of the Note, the Servicer shall automatically, immediately and conclusively be deemed to be (i) the holder of the Note, (ii) entitled to enforce the Note, and (iii) duly authorized by Freddie Mac to take Legal Action in connection with Servicing the related Mortgage **and (iv) as appropriate,** in physical possession of the Note.

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Servicers request and return physical and constructive possession of Notes from Document Custodians (including eMortgages as defined in Section 1402.2) using Form 1036, Request for Possession or Control of Documents, or its equivalent (“Form 1036,” regardless of its format). A single form may be used to request multiple Notes if each Note is separately listed and identified.

An Electronic, as defined in Section 1401.2, or alternative version of Form 1036 must contain all information required by the Form 1036, regardless of format. **Any request for release that is not delivered as hard copy is considered to be an Electronic Form 1036 (including a PDF of a paper document attached to an email).** To use an Electronic Form 1036, the Servicer must enter into an agreement with the Document Custodian as described in Section 8107.2(b).

The procedures for requesting, processing and returning Notes are described below:

**(i) To obtain physical or constructive possession of a Note, a Seller/Servicer must complete Form 1036 and deliver it to the Document Custodian.**

To obtain physical or constructive possession of a Note from a Document Custodian other than The Bank of New York Mellon Trust Company, N.A. (“BNYM”) as Designated Custodian, a Seller/Servicer must complete Form 1036 and deliver it to the Document Custodian.

When the Servicer no longer requires possession of the Note, it must promptly:

- For physical possession, return the Note to the Document Custodian unless the Mortgage was repurchased or paid in full, or
- For constructive possession, send notice (a copy of the original Form 1036 with a request for termination of constructive possession) to the Document Custodian, which will then update its document tracking system

**(ii) The Bank of New York Mellon Trust Company, N.A. (BNYM) as Designated Custodian**

To obtain physical or constructive possession of a Note from BNYM, a Servicer may complete and send the Form 1036 as described above or make an electronic request using the Asset Repository and Collateral System (“ARK”). Contact BNYM for further information on ARK (see Directory 4).

When the Servicer no longer requires possession of the Note, it must promptly:

- For physical possession, return the Note to BNYM unless the related Mortgage was repurchased or paid in full as described above; however, Servicers using ARK to request a Note must use that method to return it and include a copy of the ARK-generated 1036 Release Receipt Report, or

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- For constructive possession, notify BNYM by sending a copy of the original Form 1036 with a notice of termination of constructive possession or otherwise as instructed by BNYM which will then update its document tracking system.

### (iii) eMortgage designated custodian

In States in which the Servicer must be the holder of an eNote (as defined in Section 1402.2) to commence foreclosure or other Freddie Mac Default Legal Matters, the Servicer must follow the requirements of Section 1402.11(e) and, if required to produce a copy of the eNote for a Legal Matter, Section 1402.11(f).

Servicers must follow prudent business practices to protect and safeguard all Notes and documents while in their possession, in transit and in the possession of foreclosure counsel or agents. At a minimum, these practices include protection from damaging elements, such as water and fire, identification as a Freddie Mac asset, secure storage and tracking and segregation from unrelated documents.

### (c) Returning documents to the Document Custodian

When a Note is no longer needed for the reason cited on Form 1036, or when the Legal Action is concluded, the Servicer must promptly, and in all events within 90 days, return the Note to the Document Custodian. Notes and related documents may be transported only by nationally recognized commercial or bonded carrier or courier services and must be covered by in transit insurance. See Section 2202.5.

### (d) Lost Notes

- (i) If a Servicer becomes aware at any time that an original Note is lost, missing or has been inadvertently destroyed, the Servicer must promptly conduct a thorough and diligent search of its premises and business records and make diligent inquiry of any party that has had physical responsibility for the Note, such as a Document Custodian or foreclosure counsel. Servicer is responsible to Freddie Mac for the original Note even if it did not have physical possession of the Note at the time of loss. If Servicer cannot locate the Note after conducting the search, it must:

- Retain written records describing the search in the Mortgage file, and
- Immediately send an email to Freddie Mac (**Directory 9**) requesting Freddie Mac's permission to create a lost note affidavit (LNA) that meets the requirements of this Section 8107.1. In response to which Freddie Mac will issue:
  - ❑ An email indicating Servicer's authority to create an LNA subject to the terms and conditions set forth in this section
  - ❑ A written communication with a request for additional action

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- ☐ Additional instructions for an alternate remedy, or
- ☐ A repurchase request, if the request is not granted

Upon Freddie Mac's approval of the request, the Servicer will create an LNA as described in subsection (ii) below and maintain the LNA as if it were the original Note, provided that a copy of Freddie Mac's approval of Servicer's creation of the LNA must be maintained with the LNA in the Note file. If a Document Custodian released an original Note, it is not permitted to accept return of an LNA without evidence of Freddie Mac's authorization to create the LNA.

Servicer must adhere to these procedures, whether it believes that it or another party was responsible for losing or destroying the Note, and must maintain written policies to implement these procedures.

## **(ii) LNA Requirements**

Each LNA that Servicer creates must:

- Identify information regarding the related Mortgage, including the:
  - ☐ name(s) of the Borrower
  - ☐ the original principal balance
  - ☐ Note Date
  - ☐ recording information for the Security Instrument
  - ☐ address of the Mortgaged Premises (the zip code is not required)
  - ☐ Freddie Mac loan number; and
  - ☐ Servicer loan number
- Confirm that the person signing the LNA on behalf of the Servicer ("affiant") is over the age of 18, competent to testify, and either has independent knowledge of the facts set forth in the LNA or has made appropriate inquiry of persons having knowledge of such facts
- Identify Freddie Mac as owner of the Mortgage
- Set forth the name and function of the Servicer

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- State the basis for affiant's assertion that the Note is lost or destroyed, including whether affiant is familiar with and has access to Servicer's business records as part of affiant's regular job functions
- Verify that Servicer received the original Note
- State that Servicer conducted a good faith, thorough and diligent search of Servicer's premises and business records and has been unable to locate the original Note
- State that, at the time that the Note was lost or destroyed, Servicer was entitled to enforce the Note
- State that Freddie Mac and its successors-in-interest and assignees may rely on the LNA
- Have attached to it a complete copy of the Note showing all endorsements through certification for purchase by Freddie Mac, if any
- Contain the notarized signature of an employee of Servicer who is identified on the LNA by printed or typed title; and
- Satisfy the requirements of applicable law to enforce the debt obligation in the State in which the Mortgage Premises is located

For each such State, Servicer must receive, and make available upon request for Freddie Mac's inspection, an opinion of counsel (who must be licensed to practice law in that State) that the form of LNA used is as valid and enforceable as the Note would be if it were present.

Certain States may require additional representations and information: for example, New York requires information regarding the original receipt of the Note and the methodology of Servicer's good faith efforts to determine that the Note was lost.

**(iii) Servicer representations and warranties regarding enforceability of the Note; indemnification**

Servicer acknowledges that creating an LNA does not relieve Servicer of any representation or warranty relating to enforceability of the Note and agrees to indemnify Freddie Mac under Section 8101.9 for any loss, damage, or expenses that arise because the original Note is unavailable.

Servicer must provide written testimony, witnesses, or other support to prove the LNA and enforce the debt obligation in a Legal Action, as defined in Section 8107.2, when requested by Freddie Mac, even when Servicer no longer services the related Mortgage and those activities support a Transferee Servicer's efforts to enforce the debt obligation or otherwise service that Mortgage. If the Servicer has transferred servicing of a

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Mortgage with an LNA, Servicer must provide such support at the request of any subsequent Transferee Servicer or Freddie Mac.

**(iv) Records and Reporting of LNAs**

Servicer must maintain a list of all Mortgages with LNAs created pursuant to this section 8107.1 and provide the list to Freddie Mac upon request.

**(v) “Found” Notes**

If a Note is located after an LNA has been created, Servicer shall immediately notify Freddie Mac by sending an email to **loan\_delivery\_funding\_ops@freddiemac.com** and deliver the Note as directed below.

If Freddie Mac owns the Mortgage, Freddie Mac may direct Servicer and Document Custodian to perform certain verifications, deliver the Note to the Document Custodian, and execute certain documents as further described in the Document Custody Procedures Handbook. After the Document Custodian accepts the Note, Freddie Mac will destroy, or direct the destruction of, the LNA, and the Servicer’s indemnification obligations shall terminate without further action by any party.

If Freddie Mac no longer owns the Mortgage when the Note is found, the Servicer must contact the new owner for instruction.

## **8107.2: Document Custodian’s custodial functions (11/01/20)**

**(a) General duties**

Each Document Custodian **must** maintain custody of the Notes and assignments (**collectively, as appropriate, “Notes,”** see the definition in the Glossary), in trust, for the benefit of Freddie Mac by:

- Storing the Notes in secure, fire-resistant facilities as required by Section 2202.2(b).  
**When a** Servicer delivers supplemental **or trailing** documents, such as original modifying instruments, the Document Custodian must place **them** with the related Note
- Affixing the Freddie Mac loan number to the Note, if advised that Freddie Mac requires it and, if the Note contains the Freddie Mac loan number, changing the Freddie Mac loan number on a Note if advised by the Servicer that Freddie Mac has changed the Freddie Mac loan number for that Mortgage
- **Complying with the requirements of this Section 8107.2 and all Tri-Party Agreements**

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## **(b) Requests for Release of Notes and assignments to Servicers**

Servicers may require physical or constructive possession of Notes in conjunction with a Legal Action or for the payoff, foreclosure, repurchase, substitution, conversion, modification, or assumption of a Mortgage. Servicers must complete, sign, and submit a Form 1036, Request for Possession or Control of Documents, or its equivalent, such as the Web Release Request described in Section 8107.1(b), (“Form 1036” regardless of its format) to the Document Custodian. Absent manifest error, Document Custodians may rely on information received from Servicers on Form 1036.

Alternative versions of Form 1036 must contain all information required by the Form 1036, regardless of **their** format. A single form may be used to request multiple Notes if each Note is separately listed and identified.

A Form 1036 is considered to be Electronic, using the definition in Section 1402.2, if it is transmitted in any format other than paper, including PDFs of paper documents delivered as attachments to email. Before using an Electronic Form 1036, Freddie Mac requires that the Servicer and Document Custodian have in place a written agreement that:

- Defines Electronic Signature and the type(s) of electronic transmission(s) permitted
- States the Document Custodian’s requirements for accepting an Electronic Signature
- States the Servicer’s requirements for maintaining and controlling access to Electronic Signature information
- Clearly assigns liability when the terms of the agreement are violated

Document Custodian must retain **for each Servicer** a list of individuals authorized to request the release of documents electronically. The list must be **dated and** signed by an officer of the Servicer and contain sample signatures of the authorized individuals.

The Document Custodian should review and retain documentation of such review for each Note file to verify its completeness and that the Note is original before releasing it to the Servicer. This enables the Document Custodian to verify that the Servicer returns all the documents, including the original documents, that were released to it.

## **(c) Document delivery requirements**

### **(i) Delivery and return of physical possession**

Servicers may require physical possession of Notes to service Mortgages for a Legal Action or otherwise. Servicers must complete **and** sign Form 1036 and submit it to the Document Custodian. See Section 8107.1(b). Upon receipt of Servicer’s signed Form 1036, the Document Custodian shall transfer and deliver physical possession of the Note as directed by the Servicer. Notes may be transported only by a nationally recognized commercial or bonded carrier or courier service and must be covered by transit insurance. See Sections 2202.2 and 2202.5.

When a Note is no longer needed for the reason cited on Form 1036 or when the Legal Action is concluded, the Servicer must promptly (and in any event within 90 days) return the Note to the Document Custodian. Upon receiving the Note, the Document Custodian shall immediately resume its physical custody, in trust, for the benefit of Freddie Mac, as set forth in the Tri-Party Agreement, verify that all documents that were released have been returned and update its tracking system to reflect their receipt. See Section 8107.2(e) for instances in which the Document Custodian released an original Note and the Servicer returns an LNA in lieu of the original Note.

**(ii) Delivery and return of constructive possession**

The Servicer must complete, sign, and submit Form 1036 to request constructive possession from the Document Custodian. The constructive possession will commence on the earlier of the date on which the Document Custodian receives the Servicer's request for constructive possession and the Servicer commences the Legal Action.

The Document Custodian maintains physical custody of the Note for the benefit of the Servicer while the Servicer has constructive possession. For the duration of the Legal Action, the Servicer shall be:

- In constructive possession of the Note
- The holder of the Note
- Entitled to enforce the Note, and
- Authorized by Freddie Mac to take Legal Action to service the related Mortgage

Upon notice from the Servicer that the Legal Action is concluded, the Document Custodian shall automatically and immediately update its document tracking system and cease maintaining physical custody of the Note, in trust, for the benefit of the Servicer and resume maintaining physical custody of the Note, in trust, for the benefit of Freddie Mac.

**(d) Form imaging and retention requirements**

The Document Custodian must retain Form 1036 for three months after the date the Mortgage is paid off, but they need not retain Form 1034E, Note Delivery Cover Sheet Certification Schedules, after the related Mortgages have been certified. Documents and forms may be retained as Electronic Records on the terms and conditions for maintaining such Records set forth in Chapter 1401.

In disposing of documents, the Document Custodian must have in place and follow procedures and use destruction methods that ensure the confidentiality of Borrowers' private personal information.

**(e) Lost Notes and LNAs**

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The Document Custodian may receive, either as a return of released documents or in a Transfer of Servicing or transfer of custody, an LNA rather than the original Note. The Document Custodian may accept an LNA only if the Servicer delivers evidence of Freddie Mac's approval of the use of an LNA for that Mortgage. Acceptable evidence of such approval includes a copy of a single loan exception or the text of an email from Freddie Mac, and must include specific reference to the related Mortgage, which may appear on a list. If the Servicer does not include such evidence, the Document Custodian must contact Freddie Mac immediately at **loan\_delivery\_funding\_ops@freddiemac.com** and await further instruction.

The Document Custodian must verify that each LNA:

- Is an original, signed in ink by an officer of the Seller/Servicer that created the LNA, and notarized
- Must include the name of each Borrower on the Note, the original principal amount of the Note, the Note Date, and recordation information for the related Security Instrument
- Has attached to it a complete copy of the entire missing Note, including all required signatures and endorsements to the Servicer that created the LNA

If the LNA meets these requirements, the Document Custodian must verify the loan data from the Note copy attached to the LNA, and maintain the LNA on the same basis as it would if the LNA were an original Note. This includes observing all requirements relating to requests for release.

If at any time an original Note is recovered as described in Section 8107.1(d)(v), the Servicer will deliver it to the Document Custodian, and the Document Custodian will follow the process set forth in the Document Custody Procedures Handbook for "found Notes." Document Custodians may contact Freddie Mac (**Directory 9**) for instructions and further information on verifying and managing LNAs.

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Security Instrument) or credit the excess to the Borrower by a reduction in monthly Escrow installments. Any interest payable to the Borrower for Escrow, when required by applicable law, or any other funds held by the Servicer, whether due to contractual agreement or operation of law, must be paid by the Servicer at its own expense.

If the amount held in Escrow by the Servicer is deemed insufficient to pay charges when due, the Servicer should obtain the necessary additional funds from the Borrower before the latest date on which the charges may be paid prior to penalty, lapse of insurance policies, adverse impact to Freddie Mac's interest in the Mortgage, etc. If the Borrower fails to remit the deficient amount or if there is insufficient time to obtain the amount, the Servicer must pay any charges due and reflect a shortage in the Borrower's Escrow account. The Servicer may either increase the Borrower's next payment to cover the entire advance or schedule the repayment of such advance over several months. The Servicer may not collect the advance by deducting from one or more regular monthly Mortgage payments.

For delinquent Mortgages, the Servicer must continue to pay Escrow items for the following expenses:

- **Property** taxes, property insurance **premiums** and other charges as described in the Security Instrument
- Mortgage insurance premiums, **if applicable**

Servicers must contact Freddie Mac (**see Directory 5**) and obtain Freddie Mac's written approval before paying the taxing authority when federal, State or local income tax liens would take priority over Freddie Mac's First Lien position.

The Servicer may, by written notification to the Borrower, and without Freddie Mac's approval, start collecting Escrow previously waived.

However, if the Mortgage is secured by a Manufactured Home and the Borrower becomes 60 days or more delinquent, a Servicer must start collecting Escrow that was previously waived as a part of any repayment arrangement.

## **(b) Waiver of Escrow accounts**

### **(i) Circumstances in which Escrow may be discontinued**

Other than as stated in Section 8201.1(b)(ii) below, if requested by the Borrower, Servicers may discontinue collecting Escrow if:

- The Mortgage has not been delinquent for 30 days or more at any time during the previous six months
- The Servicer's waiver is in writing and grants the Servicer the right to resume collection of Escrow if there is any nonpayment of the items for which Escrow had previously been collected; and

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- Applicable law allows or does not prohibit the Servicer to discontinue collecting Escrow

**(ii) Circumstances in which Escrow may not be discontinued**

Servicers may not discontinue or waive collecting Escrow on the following Mortgages if they had an Escrow account when sold to Freddie Mac:

- A Mortgage secured by a Manufactured Home or a 2- to 4-unit property
- An Affordable Gold<sup>®</sup> 97 Mortgage
- A Texas Equity Section 50(a)(6) Mortgage
- An A-minus Mortgage
- A Freddie Mac 100 Mortgage
- A Home Possible<sup>®</sup> Mortgage
- A HomeOne<sup>SM</sup> Mortgage

Additionally, except Mortgages modified under the terms in Sections 9206.5(e) or 9206.4(d), a Servicer may not discontinue or waive collecting Escrow on Mortgages that have been modified under a Freddie Mac mortgage modification program.

Servicers must follow FHA, VA, RHS or MI Escrow waiver and reinstatement requirements.

**(c) Non-payment of Escrow charges**

If Escrow is not collected and the Servicer discovers nonpayment of any charge otherwise payable from Escrow, the Servicer must contact the Borrower and allow the Borrower 30 days to provide proof of payment. The Servicer must advance funds for the unpaid charge and any applicable penalty if the Borrower indicates inability to make the payment or does not provide proof of payment within the required 30 days. The Servicer must attempt to work out an arrangement with the Borrower for repayment of any advance and, if allowed by applicable law, must begin to collect Escrow for future bills.

If both:

- The Borrower fails to pay any charge otherwise payable from Escrow; and
- The Servicer has advanced funds for the unpaid charge and any applicable penalty

And either:

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- A mutually satisfactory arrangement cannot be made for the Borrower's repayment of the advance or the Borrower fails to comply with the terms of any such arrangement; or
- The Borrower fails to pay Escrow to the Servicer after the Servicer starts collecting Escrow that was previously waived

Then the Servicer must comply with the collection, loss mitigation and, if necessary, foreclosure referral requirements set forth in Chapters 9101 or 9102, as applicable.

## **8201.1: Escrow for property taxes, ground rents and assessments or other charges (Future effective date 02/01/21)**

The Servicer must obtain bills for and pay all Escrow items **in accordance with the terms of the Mortgage** before the applicable penalty or termination date. The Servicer must maintain adequate records to prove payment of all property taxes, ground rents and assessments or other charges that, if delinquent, are or may become First Liens on the property or that if not paid would result in the subordination of Freddie Mac's interests, as applicable. (See Section 9301.27 regarding expenses that may become First Liens on the property.)

**If the Borrower requests, the Servicer may also collect and administer funds to pay expenses not provided for in the Mortgage, such as life insurance on the Borrower.**

**If the Servicer does not collect Escrow or discontinues collecting Escrow, then:**

- The Servicer must require that the Borrower furnish proof of payment; and/or
- The Servicer may use other means (such as tax services) commonly employed by private institutional mortgage investors to satisfy itself that these items have been paid

### **(a) Annual Escrow analysis**

At least annually, the Servicer must compute the required Escrow payment based on reasonable estimates of assessments and bills to determine that sufficient funds are being collected to meet all Escrow payments.

#### **(i) Escrow surplus**

If the amount held in Escrow by the Servicer, together with the future monthly installments of Escrow, exceeds the amount required to pay charges as they fall due, plus any "cushion" permitted by applicable law, the Servicer must either:

- Repay the excess promptly to the Borrower (if there is no default under the terms of the Security Instrument) or

# **Chapter 9301: Foreclosure**

## **9301.1: Foreclosures on Freddie Mac Mortgages (03/02/16)**

The Servicer must refer to, manage and complete foreclosure in accordance with this chapter when there is no available alternative to foreclosure. Additionally, Freddie Mac requires the Servicer to manage the foreclosure process to acquire clear and marketable title to the property in a cost-effective, expeditious and efficient manner.

## **9301.2: General Servicer requirements for Freddie Mac Default Legal Matters (03/02/16)**

When following the requirements provided in this chapter while processing Freddie Mac Default Legal Matters, the Servicer must comply with:

- The terms and conditions of the Mortgage documents, including the Note
- Applicable federal, State and local laws and customs
- Requirements of the FHA, VA, RHS or MI, if applicable
- The Guide and other Purchase Documents

## **9301.3: Freddie Mac's rights (03/02/16)**

Among other rights available under applicable law and the Guide, Freddie Mac reserves the right to:

1. Select the foreclosure counsel
2. Direct and manage the actions taken by the foreclosure counsel, on a case-by-case or jurisdiction-wide basis
3. Assess compensatory fees and/or seek repayment of losses sustained due to errors, omissions or delays by the Servicer or its agent
4. Limit the amount of a reimbursement for attorney fees if those fees exceed the expense limits in Exhibit 57A, Approved Attorney Fees and Title Expenses, or the fees commonly charged for similar services in the area where the services are being performed

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enforce the liens (whenever possible) and so as not to unnecessarily lengthen the foreclosure process.

## **9301.10: Choosing a judicial or nonjudicial foreclosure process (03/02/16)**

In States where the Servicer has the option of pursuing a judicial or nonjudicial foreclosure process, the Servicer must choose the nonjudicial process. However, if the Servicer determines its filing of a judicial foreclosure will preserve the right to pursue a deficiency judgment, and/or is in Freddie Mac's best interests, the Servicer should refer to Exhibit 57A, Approved Attorney Fees and Title Expenses, to determine if Freddie Mac has approved judicial foreclosure attorney fees in the State.

If Freddie Mac has approved judicial foreclosure attorney fees in the State, the Servicer may pursue a judicial foreclosure process without Freddie Mac's approval.

If Freddie Mac does not have approved judicial foreclosure attorney fees in the State, or the filing of a judicial foreclosure will incur additional attorney fees exceeding the expense limits in Exhibit 57A, the Servicer must obtain Freddie Mac's approval prior to referral to judicial foreclosure by submitting a request for pre-approval via the Freddie Mac Reimbursement System.

Refer to Section 9301.24 regarding when to request Freddie Mac's approval to preserve deficiency rights.

## **9301.11: Obtaining the original Note (02/14/18)**

If physical or constructive possession of the original Note is needed to perform the foreclosure, the Servicer must request the Note from the Document Custodian maintaining the Note by submitting to the Document Custodian a completed Form 1036, Request for Physical or Constructive Possession of Documents, or an electronic or system-generated version of the form (or, in the case of [The Bank of New York Mellon Trust Company, N.A.](#) as the Designated Custodian, a copy of the electronically generated 1036 Release Receipt Report) in accordance with the requirements of Section 8107.1(b).

If there is a full or partial reinstatement of the Mortgage, the Servicer must return the Note to the Document Custodian with either the original Form 1036 or a copy.

## **9301.12: Foreclosing in the Servicer's name (11/14/18)**

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### **(a) Conducting the foreclosure**

# Chapter 9401: Bankruptcy

## 9401.1: Bankruptcy (10/12/16)

This chapter provides Servicers with Freddie Mac's requirements for Servicing Mortgages subject to bankruptcy proceedings or litigation. The Servicer must take appropriate action to protect Freddie Mac's interest during bankruptcy proceedings in which the Borrower is the debtor.

(Refer to Chapter 9402 for requirements [for Servicing Mortgages subject to other](#) litigation.)

## 9401.2: Freddie Mac's rights (08/01/18)

In addition to any other remedies it may have at law or in equity, Freddie Mac reserves the right, at its sole discretion, to:

1. Require the Servicer to submit copies of any and all records related to Freddie Mac's Mortgages
2. Require the Servicer to compensate Freddie Mac and hold Freddie Mac harmless for any loss, damage or expense, including without limitation, previously paid incentives, expense reimbursements, court costs and attorney fees, that Freddie Mac sustains as a result of the Servicer's failure to comply with the provisions in this chapter, Chapter 8402, Chapter 8403, Section 9402.1 [and](#) Section 8601.26, or that result from errors, omissions or delays by the Servicer or the Servicer's agent
3. Use or require the Servicer to use Freddie Mac's counsel or trustee for any [Freddie Mac Default Legal Matter](#)
4. Limit the amount of a reimbursement for attorney fees if those fees exceed the limits in Exhibit 57A, Approved Attorney Fees and Title Expenses, or the fees commonly charged for similar services in the area where the affected property is located
5. [Limit the amount of a reimbursement for preservation and maintenance expenses if those expenses exceed the limits in Exhibit 57, 1- to 4-Unit Property Approved Expense Amounts](#)
6. [If the Servicer does not obtain Freddie Mac's prior written approval as required](#), deny the Servicer's request for reimbursement of expenses incurred as a result of Servicing Freddie Mac's Mortgages under the requirements of this chapter [and Chapter 8402](#)
7. Assess compensatory and other fees and exercise any remedies provided by the Guide and the other Purchase Documents if the Servicer fails to comply with the requirements contained

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# Chapter 9402: Other Litigation Involving Freddie Mac-Owned or Guaranteed Mortgages

## 9402.1: Freddie Mac rights (07/13/16)

Freddie Mac reserves the right to direct and control all litigation involving a Freddie Mac-owned or guaranteed Mortgage, regardless of whether Freddie Mac is a named party. The Servicer and all law firms handling the litigation, whether selected and engaged pursuant to Chapter 9501, Section 8601.25 or Section 9402.4, must cooperate fully with Freddie Mac in the prosecution, defense and handling of the matter.

Refer to Section 9401.2 for Freddie Mac rights when the requirements of this section regarding Servicer and law firm cooperation with Freddie Mac in the prosecution, defense and handling of litigation involving Freddie Mac-owned or guaranteed Mortgages are not met.

## 9402.2: Routine and non-routine litigation (06/12/19)

### (a) Definition of routine and non-routine litigation

- **Routine litigation** generally is a contested action in which the Borrower alleges case-specific defenses or issues which, if successful, would not create negative legal precedent beyond the immediate case
- **Non-routine litigation** generally is a contested action in which the Borrower alleges case-specific defenses or issues, which, if successful, would create negative legal precedent beyond the immediate case

Examples of non-routine litigation that must be reported to Freddie Mac as non-routine litigation include, but are not limited to, the following:

- Actions that name Freddie Mac as a party
- Action that seeks monetary relief against Freddie Mac, including any claim (including counterclaims, cross-claims, or third-party claims in foreclosure or bankruptcy actions) for damages against Freddie Mac or its officers, directors, or employees
- Actions that challenge the validity, priority, or enforceability of a Freddie Mac-owned or guaranteed Mortgage or seek to impair Freddie Mac's interest in an REO including, by way of example:

1. An action seeking to demolish a structure on the property or the property as a result of a code violation

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2. An action seeking to avoid a lien based on a failure to comply with a law or regulation
  3. An attempt by a junior lienholder to assert priority over a Freddie Mac-owned or guaranteed Mortgage or extinguish Freddie Mac's interests
  4. A quiet title action seeking to declare Freddie Mac's lien void; and
  5. An attempt by a Borrower to effect a cramdown of a Mortgage in bankruptcy as to which Freddie Mac has not delegated authority to the Servicer or law firm to address
- Actions that present an issue that may pose significant legal or reputational risk to Freddie Mac include, by way of example:
1. Any issue involving Freddie Mac's conservatorship, its conservator, FHFA, Freddie Mac's status as a federal instrumentality, or an interpretation of Freddie Mac's charter
  2. Any assertion that Freddie Mac is a federal agency or otherwise part of the United States Government
  3. Any "due process" or other constitutional challenge
  4. Any challenge to the methods by which Freddie Mac does business
  5. Any putative class actions involving a Freddie Mac-owned or guaranteed Mortgage
  6. Challenges to the standing of the Servicer to conduct foreclosures or bankruptcies which, if successful, could create negative legal precedent with an impact beyond the immediate case
  7. Challenges to the methods by which MERS<sup>®</sup> does business or its ability to act as nominee under a Mortgage
  8. Any "show cause orders" or motions for sanctions relating to a Freddie Mac-owned or guaranteed Mortgage, whether against Freddie Mac, the Servicer, a law firm, or a vendor of the Servicer or law firm
  9. Any appellate or other action for post-judgment relief in any foreclosure, bankruptcy or legal action in which Freddie Mac is a named party
  10. Foreclosures on HUD-Guaranteed Section 184 Native American Mortgages
  11. Any environmental litigation relating to a Freddie Mac-owned or guaranteed Mortgage

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12. A need to foreclose judicially in a State where non-judicial foreclosures predominate
13. Any claim invoking Home Affordable Modification Program (HAMP®) as a basis to challenge a foreclosure
14. Any claim brought by a governmental body
15. Cross-border insolvency proceedings under Chapter 15 of the Bankruptcy Code
16. Any claim of predatory lending or discrimination in Mortgage origination or Servicing; and
17. Any claim implicating the interpretation of the terms of the Fannie Mae/Freddie Mac Uniform Mortgage Instruments

- Actions involving an eNote or eMortgage (as those terms are defined in Section 1402.2)

Given the evolving nature of default-related litigation, it is not possible to provide an exhaustive list of non-routine litigation. Each contested action presents unique circumstances, and the Servicer should evaluate each action on a case-by-case basis to determine whether a contested action is routine or non-routine.

#### **(b) Legal actions and strategies initiated by the Servicer**

A Servicer must obtain written approval (**see Directory 5**) from the Freddie Mac Legal Division prior to initiating the following legal actions and strategies:

- Filing a new legal action, other than a Freddie Mac Default Legal Matter, on behalf of Freddie Mac
- Filing a motion to intervene in a pending legal action on behalf of Freddie Mac
- Appealing or otherwise challenging a judgment in any foreclosure or bankruptcy proceeding, or any legal action in which Freddie Mac is a named party
- Filing a notice of removal to federal district court for any legal action in which Freddie Mac is a named party
- Asserting any position in a legal action that relates to Freddie Mac's status as a Government Sponsored Enterprise (GSE), its conservatorship, or its conservator, FHFA
- Propounding discovery requests or otherwise serving or providing any discovery responses on behalf of Freddie Mac

#### **(c) Referring to Freddie Mac in litigation**

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Freddie Mac must be described in legal proceedings as “Federal Home Loan Mortgage Corporation (“Freddie Mac”), a corporation organized and existing under the laws of the United States of America.” Freddie Mac may not be referred to as a “government agency.”

**(d) MERS-registered Mortgages**

See Section 8101.12(b) for additional requirements relating to notices from MERS and MERS-registered Mortgages.

**(e) eMortgages**

Per Section 1402.11(d), the Servicer must consult the Freddie Mac Legal Division ([Legal\\_eMortgage@freddiemac.com](mailto:Legal_eMortgage@freddiemac.com)) and cooperate with Freddie Mac to determine appropriate legal actions and strategies to undertake before pursuing foreclosure or other Freddie Mac Default Legal Matters with respect to an eMortgage.

## **9402.3: Reporting and notification requirements for litigation (10/01/17)**

The Servicer must monitor all Freddie Mac Default Legal Matters.

**(a) EDR requirements**

The Servicer must act without delay and in accordance with applicable law when responding to any litigation matter.

If litigation involves a Mortgage that is 30 or more days delinquent, the Servicer must report the litigation matter to Freddie Mac via EDR within the first three Business Days of the month following the month in which the Servicer became aware of the litigation, using default action code 33 (Contested Foreclosure and Litigation).

**(b) Legal reporting requirements for non-routine litigation**

**(i) Notifying Freddie Mac of non-routine litigation**

The Servicer must act without delay and notify Freddie Mac within two Business Days of determining that the Freddie Mac Default Legal Matter involves or evolves into non-routine litigation. All notifications must be sent via e-mail (see **Directory 5**).

If the Servicer retains counsel not selected and engaged pursuant to Chapter 9501 to handle the non-routine litigation matter (see Section 8601.25 and Section 9402.4), the notification to Freddie Mac must include the name, address, phone number, and e-mail address of the Servicer’s counsel and a brief summary including but not limited to: the issues presented, the Freddie Mac loan number, docket number, case caption and court and any relevant pleadings.

# **Chapter 9501: Selection, Retention and Management of Law Firms for Freddie Mac Default Legal Matters**

## **9501.1: Servicer's management of law firms for Freddie Mac Default Legal Matters (03/02/16)**

This chapter sets forth requirements for the Servicer's review and evaluation, selection, retention and management of law firms (referred to throughout this chapter as "firms") for Freddie Mac Default Legal Matters.

Effective June 1, 2013, all referrals of Freddie Mac Default Legal Matters must be conducted in accordance with the requirements of Chapter 9501. Chapter 9501 governs the referral of Freddie Mac Default Legal Matters to law firms selected by the Servicer under the requirements of Section 9501.7.

Effective August 1, 2013, Servicers must comply with all requirements of this chapter in order to refer Freddie Mac Default Legal Matters to law firms. Refer to Chapter 9502 for requirements related to Default Legal Matters referred prior to the August 1, 2013 effective date.

Each Servicer is responsible for retaining firms for Freddie Mac Default Legal Matters. Freddie Mac will continue to retain firms directly for REO-related legal services: eviction, REO closing, and related litigation (refer to Chapters 9401 and 9402 for more information relating to litigation).

## **9501.2: Review and evaluation of firms (03/02/16)**

### **(a) Due diligence**

As part of its selection process, each Servicer is responsible for obtaining and evaluating documentation and information from firms, and conducting due diligence to ensure that selected firms meet the requirements set forth in Section 9501.3. As part of the process, each Servicer must:

- Obtain and review all required documentation and information submitted by each firm
- Ensure that it selects from a pool of potentially acceptable firms that is diverse, and includes minority and women-owned firms and other diverse firms when feasible; and

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- Ensure that the firm or any entity or individual performing work for the firm is not on the Freddie Mac Exclusionary List in accordance with Section 3101.1

**(b) Due diligence documentation**

The Servicer must provide to Freddie Mac upon request a copy of each firm's application information and related due diligence documentation. Freddie Mac reserves the right to review the process, procedures and due diligence used by the Servicer to evaluate and select a firm.

**(c) Document retention requirements**

The Servicer must retain all information submitted by a firm in support of the firm's application and all information otherwise gathered by the Servicer regarding the firm. The Servicer must maintain any information relating to firms that are selected and retained by the Servicer for as long as the firm is providing legal services with respect to Freddie Mac-owned or guaranteed Mortgages and, thereafter, for the longer of any retention period applicable to the Servicer or seven years. The Servicer must maintain any information relating to firms that are not selected and retained by the Servicer for the longer of any retention period applicable to the Servicer or seven years.

## **9501.3: Firm Minimum Requirements (05/04/20)**

The Servicer must ensure that all firms selected and retained to handle Freddie Mac Default Legal Matters meet the firm minimum requirements specified in this section ("Firm Minimum Requirements"), and all other applicable Freddie Mac requirements. The Firm Minimum Requirements are as follows:

**(a) Firm practice**

The firm's practice areas must include end-to-end default-related legal services: foreclosure, bankruptcy, loss mitigation (e.g., deeds-in-lieu of foreclosure), default-related litigation and REO-related legal services: eviction, REO closing and related litigation.

The firm must:

- Be familiar with industry standards in the State in which it practices
- Understand the State legal processes and requirements in default-related and REO-related legal services; and
- Understand the substantive legal issues in the State (e.g., standing)

Additionally, the Servicer must consider firm experience in the following areas: foreclosure mediation, the Fair Debt Collection Practices Act, title curative issues, and general housing-

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related issues (e.g., rent control, Section 8, lead paint liability, health code violations, foreclosure redemption, confirmation and ratification, [condominium associations](#), [homeowners associations \(HOA\)](#), mobile home matters, and Cooperative Share Loans (see [Chapter 8801 for special Servicing requirements for Cooperative Share Loans](#))). The firm should also have some experience with delegation for loss mitigation.

The Servicer must also consider the firm's membership in default-related and REO-related trade and industry groups, attendance or participation in State bar associations, seminar and lecture participation and attendance, and any other activities relevant to default-related and REO-related law practice.

## **(b) Presence in State**

Firms generally must have a staffed office in the State in which the firm is retained for Freddie Mac Default Legal Matters.

In addition:

- The legal work must be performed by the attorneys licensed in the State where the Mortgaged Premises is located
- The firm must be registered, as necessary, with appropriate State authorities
- For the States in which an appropriately staffed office is required, the firm must disclose to the Servicer the extent, if any, to which work will be performed by an office of the firm in another State
- The Servicer must require the firm to disclose to the Servicer where the staff handling the work in the particular State is located, and to whom the staff in that office regularly reports; and
- The Servicer must obtain office addresses for each firm it seeks to retain

### **1. Judicial foreclosure States**

In judicial foreclosure States, the firm must have an appropriately staffed office in the State in which the firm is retained for Freddie Mac Default Legal Matters.

### **2. Non-Judicial foreclosure States**

In non-judicial foreclosure States, a firm must have an appropriately staffed office located in the State in which the firm is retained, except in the following non-judicial foreclosure States: Alaska, District of Columbia, Idaho, New Hampshire, Rhode Island, Montana, West Virginia and Wyoming. In those States, Servicers should give preference to firms that have staffed offices in those States. However, out-of-State firms may be used to handle Freddie Mac Default Legal Matters, provided that the firm is located in the

same region of the country and is able to demonstrate that it has policies, procedures and processes in place to handle cases from out of State.

Servicers may use firms outside of Puerto Rico, the U.S. Virgin Islands and Guam to handle foreclosure and bankruptcy matters in those States. Servicers should give preference to firms that have staffed offices in the State, but out-of-State firms may be used, provided that they are able to demonstrate that they have policies, procedures and processes in place to handle cases from outside the State.

If a Servicer has difficulty finding a sufficient number of firms with appropriately staffed offices in States other than those listed in the exceptions above, the Servicer may contact Freddie Mac to request an exception to the requirement that a firm have an appropriately staffed office located in the State. Requests should be sent to Freddie Mac (**see Directory 1**).

**(c) State-specific industry references**

The Servicer must obtain from the firm at least two State-specific mortgage servicers or default-related references, or if the firm has been in existence less than one year, the partners or shareholders of the firm must provide at least two Servicer or default-related references in connection with work performed in the particular State.

**(d) Statewide coverage and use of local counsel**

The Servicer must ensure that the firm has the ability to cover foreclosure, bankruptcy, eviction, REO closing matters and default-related litigation throughout the State.

If the firm has partnerships or relationships with third parties (e.g., local counsel, trustee companies or title companies) that will perform or complete some aspect of the default-related and REO-related work, the Servicer must require the firm to: (i) obtain disclosure from the firm regarding such relationships and the extent to which third parties will be relied upon and (ii) determine whether the firm has a reasonable contingency plan for the loss of any of those relationships or operational processes. In evaluating any such third-party relationship, the Servicer must consider the length of time the relationship has existed and the adequacy of the firm's written policies to mitigate third-party risk.

If a firm uses local counsel to handle matters within the State, the Servicer must ensure that the firm has a process to select, manage, and review the local counsel and their work product. The process must be designed to ensure that local attorneys are qualified and adequately trained and have a satisfactory history with respect to bar complaints, sanctions and similar matters.

For a firm's contested caseload (e.g., contested foreclosures and litigated cases), the firm's reliance on local counsel must be minimal. Any use of local counsel for these matters must be structured so that the retained firm will direct and manage the local counsel on those matters.

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**(e) Prior volume experience**

Servicers must confirm the firm and/or managing attorney(s) has completed a sufficient number of foreclosure, bankruptcy, loss mitigation, eviction and REO matters within the past 24 months to demonstrate that the firm has experience in representing creditors in default-related matters.

For the 24-month period, the Servicer must review the total number of matters referred, the total number of matters completed and the number of matters currently pending for each of the following areas: foreclosure, bankruptcy, loss mitigation, eviction and REO closing.

What constitutes a sufficient number of completed default-related and REO-related legal services will vary depending upon the State at issue, the volume the Servicer expects to refer to the firm, and the relative size of the firm. Servicers must consider these factors when making this determination.

**(f) Firm has adequate, relevant State-specific experience**

The Servicer must confirm that the firm has one or more managing attorney(s) or partner(s) with no less than 8 years of relevant, State-specific experience in foreclosure (including where applicable, confirmation, redemption and ratification matters), bankruptcy, loss mitigation, eviction, and REO closings and litigation. Servicers may make exceptions to this requirement for documented reasons in the event a firm is otherwise qualified.

The Servicer must obtain the names and the years of experience in each area (foreclosure, bankruptcy, eviction, REO closings and related litigation) for the firm's managing attorney(s) or partner(s) and associates.

If the principals or partners of the firm are not actively involved in the management of the firm, the Servicer must consider the level of experience of those actively involved in managing the firm.

**(g) One or more of the firm's lead attorneys has adequate, relevant litigation experience in the State**

The Servicer must determine whether the firm has at least one lead attorney to handle Freddie Mac Default Legal Matters with a minimum of five years of experience in default-related and REO-related litigation in the State. The firm's partner(s) or managing attorney(s) may act as the lead attorney for Freddie Mac Default Legal Matters. If the firm will utilize staff attorneys for Freddie Mac Default Legal Matters, one or more staff attorneys must have at least three years of experience in handling default-related and REO-related litigation in the State.

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**(h) Attorney licensing**

The Servicer must confirm that the firm's attorneys who will handle Freddie Mac Default Legal Matters are licensed to practice, and in good standing, in the State in which the firm is being retained. Legal work must be performed by attorneys licensed in the State.

**(i) Staff experience**

The Servicer must determine whether the firm's non-attorney staff has reasonable experience. In determining what constitutes reasonable experience, the Servicer must consider the average years of experience, education, qualifications and demonstrated ability of the non-attorney staff in relation to their respective levels of responsibility.

**(j) Staff oversight**

The Servicer must confirm that the firm has appropriate attorney-to-staff ratios to ensure appropriate staff oversight given the size of the firm and the firm's operational structure. The Servicer must consider whether the firm practices in a judicial or a non-judicial State, the firm's case management practices, the State-specific process, attorney and staff experience, firm technology and firm infrastructure.

**(k) File oversight**

The Servicer must confirm that the firm has appropriate (i) attorney-to-file and (ii) staff-to-file ratios, given the size of the firm and the firm's operational structure. The Servicer must take into consideration whether the firm practices in a judicial or a non-judicial foreclosure State, the firm's case management practices, the State-specific processes, attorney and staff experience, firm technology and firm infrastructure.

**(l) Firm capacity**

As of the date of the submission of the Servicer Selection Form via <https://freddiemacsats.com>, the Servicer must confirm that the firm has the ability to accept additional referrals. Additionally, the Servicer must confirm that the firm is not operating at full capacity, given the existing facilities, personnel, and technology or, alternatively, the firm must outline to the Servicer's satisfaction the steps and time frame necessary to be in a position to handle additional referrals while still maintaining appropriate firm-to-file and staff-to-file ratios. The Servicer must confirm that the firm has contingency plans to deal with a contraction in the market.

**(m) Ethics and professional standards**

The firm must demonstrate a history of legal practice that comports with applicable legal and ethical standards, reflecting high professional standards. The Servicer must conclude that the firm does not, in the totality of the circumstances, pose a legal and/or reputational risk or exhibit systematic issues that may lead to reputational and/or legal risk to Freddie Mac.

The Servicer must obtain the following information from the firm in order to evaluate the sufficiency of the firm's professional standards:

- Any sanctions against the firm or any of its present or former attorneys in the past five years, including the nature of the sanctions and if they relate to a loan-level matter or systemic firm practice, and if related to firm practice, any corrective actions taken by the firm
- Any bar complaints/reprimands against present and former firm attorneys in the past ten years and whether the complaints were closed, pending or resulted in some form of adverse action
- Any government investigations involving firm practices in the past ten years and whether the investigations involved firm practices or are related to client investigations
- Any damages or settlement of claims as a result of an allegation of professional negligence against the firm or its attorneys in the past five years (i) in excess of \$20,000 in any single occurrence, \$50,000 in the aggregate, or (ii) reflect a possible pattern of professional negligence, regardless of amount; and
- Any significant litigation asserting systemic issues with firm processes or legal work, such as any class action lawsuit against the firm

If the Servicer is aware of any of the above items that involve the firm's professional standards, but which were not disclosed by the firm, the Servicer must disclose them to Freddie Mac in the Servicer Selection Form.

The Servicer must obtain a disclosure from the firm regarding whether the firm (or any of its partners, shareholders, or employees while acting as a partner, shareholder, or principal at another firm) has been previously terminated by Freddie Mac or Fannie Mae or had referrals suspended by Freddie Mac or Fannie Mae.

The Servicer must obtain a certification from the firm that, to the best of the firm's knowledge, the firm's documents have been and continue to be prepared, executed and/or notarized in compliance with applicable law. If the firm reports that the firm, its attorneys, notaries or third-parties that the firm relies on to perform any aspect of default-related or REO-related services have previously prepared, executed or notarized documents that have not been in compliance with applicable law, the Servicer must conclude that the firm has instituted controls, procedures, and processes to address the contributing cause(s) of the firm's failure to comply with applicable law in order to execute the Servicer Selection Form.

Freddie Mac expects Servicers to exercise sound judgment and consider the totality of the circumstances in evaluating the potential legal and reputational risks posed by a firm to Freddie Mac. The items for consideration outlined above are not intended to be exhaustive or to disqualify a firm from retention if the Servicer concludes that the firm is acceptable considering the totality of the circumstances.

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#### **(n) Timelines**

The Servicer must review the firm's completion timelines, and confirm that the firm is able to track, monitor and complete foreclosure and bankruptcy matters in compliance with applicable law and Freddie Mac timeline requirements, taking into consideration outside factors that impact compliance with Freddie Mac timelines such as new foreclosure requirements and court delays.

#### **(o) Information privacy**

The firm must maintain physical, technical and procedural controls and effective information security and data management to:

- Ensure the security and confidentiality of personally identifiable information (PII) and confidential information, whether in paper, electronic or other form
- Protect against any threats or hazards to the security or integrity of such information; and
- Protect against unauthorized access to or use of such information

The firm must implement controls meeting or exceeding industry standards, including, as applicable, standards promulgated by the International Office for Standardization (ISO) or National Institute for Standards and Technology (NIST). The firm must ensure that PII that is stored on the firm's systems and workstations is encrypted at rest at all times. The firm must have secured storage for promissory notes and other original documents to prevent theft and to ensure protection against fire, flood or other damage. The firm may not perform, outsource, or send to any affiliate outside of the United States or its territories, any legal work on Freddie Mac-owned or guaranteed Mortgages, including any storage of Freddie Mac data. The firm may not send any PII underlying Freddie Mac-owned or guaranteed Mortgages, outside the United States. The firm must have written policies, procedures, and processes in place by the date of the submission of the Servicer Selection Form, related to protection of PII and fraud prevention, including policies, procedures and processes related to: background checks of all employees; protection of PII; fraud prevention and identification; and incident response and notification protocols for data breaches and other security incidents. The Servicer must review and confirm that the firm meets these requirements for information security, data management, protection of PII and fraud prevention.

#### **(p) Daily reporting to Freddie Mac**

The Servicer must confirm that the firm has the capability to provide daily reporting to Freddie Mac of key metrics (i.e., volume, milestones, delays, loss mitigation successes, litigation detail, etc.) via the Attorney Data Reporting (ADR) System, a Servicing Tool, pursuant to Section 9501.10. The Servicer must also ensure that the firm has staff responsible for reporting data directly to Freddie Mac using ADR.

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#### **(q) Technology**

The Servicer must confirm that the firm has adequate technology in place or technological capabilities to provide reporting, communication and tracking of key events and milestones, including access to PACER/ECF or other similar systems to obtain case and docket information from federal appellate, district and bankruptcy court records.

Additionally, the Servicer must confirm that the firm is able to provide status reports and track significant dates and events for foreclosure, bankruptcy, evictions and REO closings and has the capability to measure the duration between various process stages, to identify process impediments (e.g., holds) and to parse holds into different categories.

If a firm is multi-jurisdictional or has partnerships or relationships with third parties (e.g., local counsel, trustee companies or title companies) that will perform or complete some aspect of the default-related or REO-related work or if the firm relies on other offices to perform some aspect of the work or provide operational support, the Servicer must confirm that the firm maintains a reliable and secure means of exchanging matter information between each office and any third party the firm relies upon.

The Servicer must require the firm to describe whether the firm currently uses a universal translation technology to communicate information between their technological system and the various Servicers' systems, or explain its method for transmitting information efficiently, accurately and securely to Servicers.

#### **(r) Technology staffing**

The Servicer must confirm that the firm has adequate in-house technical expertise or readily available vendor support to ensure compliance with Freddie Mac's automated reporting requirements.

#### **(s) Insurance requirements**

The Servicer must confirm that the firm has an appropriate level of malpractice and errors and omissions insurance coverage in place or be able to obtain an appropriate amount of insurance by the date of the submission of the Servicer Selection Form. The appropriate level of insurance coverage will depend upon the total number of Freddie Mac and Fannie Mae files the firm is managing or expects to manage when being evaluated by the Servicer. The firm must have the ability to obtain the appropriate amount of insurance coverage under the new requirements as follows:

- Tier I, volume of 0-4,499 foreclosure matters, coverage of not less than \$1 million per occurrence with an aggregate of not less than \$3 million
- Tier II, volume of 4,500-19,999 foreclosure matters, coverage of not less than \$5 million per occurrence with an aggregate of not less than \$5 million; and

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- Tier III, volume of 20,000 or more foreclosure matters, coverage of not less than \$8 million per occurrence with an aggregate of not less than \$8 million

The required level of insurance is determined by the higher of the Freddie Mac or Fannie Mae pending foreclosure volume. By way of example, if a firm had 2,000 Freddie Mac foreclosure matters and 4,501 Fannie Mae foreclosure matters, the firm would fall within Tier II and the required coverage would be not less than \$5 million per occurrence with an aggregate of not less than \$5 million. Beginning in 2014, Servicers must conduct an updated coverage analysis annually, with the appropriate level of insurance to be determined by the number of matters being handled as of June 1 of each year. When an annual review reveals a need to increase a firm's coverage, firms will have until December 31 of each year to obtain any required increased coverage. Servicers may grant firms additional time to obtain increased coverage, if necessary, to reach the routine renewal date for the firm's policy but may not grant extensions beyond June 1 of the following year.

**(t) Financial resources**

The Servicer must confirm that the firm has adequate financial resources and the financial ability to make required advances in connection with filing fees and costs necessary to process default-related and REO-related matters.

The Servicer must review the firm's financial statements and/or other firm financial documents in order to confirm that the firm has sufficient reserves or credit lines to manage operating expenses.

**(u) Business continuity**

The Servicer must confirm that the firm has business continuity and/or disaster recovery plans in place to recover critical business functions. The firm must have a documented succession/continuity plan in the event of loss of the firm owners/partners.

**(v) Quality control**

The Servicer must confirm that the firm has written policies, procedures and/or processes in place by the date of the submission of the Servicer Selection Form, to ensure the proper management and supervision of staff and the proper preparation, review, execution and notarization of default-related documents and REO-related documents. The Servicer must also confirm the firm has an escalation process for employees to raise document execution and other quality control issues to firm management.

The Servicer must obtain documentation and information related to the firm's process for ensuring compliance with its policies, procedures, processes and training, such as an internal compliance program and/or quality control reviews.

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**(w) Employee training**

The Servicer must confirm that the firm has written policies for employee training, including privacy training. When determining whether a firm's employee training is adequate, the Servicer must review the frequency of training, the presence of policies and procedures and firm handbooks, manuals and job aids.

**(x) Adverse matters**

No substantial part of the firm's practice can include matters that are adverse to financial institutions, including Freddie Mac or Fannie Mae. Adverse matters to financial institutions include:

- Condominium association, HOA or Cooperative Corporation foreclosures
- Consumer debtor or mortgagor representation
- Bankruptcy trustee representation; or
- Any other client(s) that may create a potential conflict of interest

**(y) Conflicts of interest**

Attorneys must not be affected by a conflict of interest or a potential conflict of interest when handling Freddie Mac Default Legal Matters. The Servicer must retain the most qualified attorneys in compliance with Freddie Mac requirements to assist with processing Freddie Mac Default Legal Matters without regard to arrangements that could provide a financial or personal benefit directly or indirectly to the Servicer, its employees, outsource companies or third-party vendors utilized by the Servicer to assist in Servicing defaulted Mortgages.

On the Servicer Selection Form, the Servicer must disclose to Freddie Mac any current, past (within the last five years), or pending personal and/or financial relationships between (i) the Servicer and the firm, including its partners and shareholders (as applicable) and (ii) the firm, including its partners and shareholders (as applicable), and any outsourcing company or other third-party vendor utilized by the Servicer to assist in Servicing defaulted Mortgages.

**(z) Disclosure of third-party service providers**

The Servicer must require the firm to disclose the identity of, and relationship with, any entities the firm relies upon to provide third-party support functions performed on the Servicer's behalf, including, but not limited to, title searches, title insurance, posting, publication, and process services.

The Servicer must also require the firm to disclose whether the firm has a process to select and regularly review costs and performance of vendors of related sources to ensure competitive pricing and high quality.

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**(aa) Referrals**

The Servicer is responsible for ensuring that the firm complies with Freddie Mac requirements and applicable laws regarding referrals and payment of related fees and benefits, as further described in Sections 9501.7 and 9501.8.

The Servicer must not require the firm to use vendors, outsource companies or other third-parties specified by the Servicer as a condition of receiving a referral of a Freddie Mac Default Legal Matter.

**(bb) Diversity data**

The Servicer must confirm that the firm has the capability to report diversity data to the Servicer and Freddie Mac, if necessary.

## **9501.4: Selection of firm (03/02/16)**

**(a) Servicer selects firm**

If the Servicer determines that a firm meets the Firm Minimum Requirements specified in Section 9501.3 and all other Guide requirements, then the Servicer must complete and submit a Servicer Selection Form to Freddie Mac, via <https://freddiemacsats.com> and receive Freddie Mac's "no objection" determination before entering into an agreement with a firm to handle Freddie Mac Default Legal Matters. If Freddie Mac requests additional information from the Servicer as part of this process, the Servicer must provide the requested information within the time frame requested by Freddie Mac. Servicers may not rely upon a previous submission of a Servicer Selection Form with respect to a firm by another Servicer that received a "no objection" determination. Each Servicer must conduct its own due diligence, submit a Servicer Selection Form and receive a "no objection" determination for each firm that the Servicer wishes to retain to handle Freddie Mac Default Legal Matters.

If a firm practices in multiple States, the Servicer must submit a Servicer Selection Form for each State office for which the Servicer wishes to retain the firm.

### **Servicer Attorney Tracking System (SATS) registration**

Servicers must use the Servicer Attorney Tracking System (SATS), an online process, to submit a Servicer Selection Form to Freddie Mac for each law firm selected to handle Freddie Mac Default Legal Matters. To establish access to SATS, Servicers must first register to create a user ID and password at <https://freddiemacsats.com>. After completing the registration process, SATS will allow users to submit the information required in the Servicer Selection Form to Freddie Mac for review. SATS will also allow Servicers to respond to Freddie Mac's requests for additional information, as necessary, and will allow Servicers to track each submission's status during the review process.

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Freddie Mac will not review any Servicer Selection Form completed and submitted to any Freddie Mac e-mail address. Servicers must complete and submit the Servicer Selection Form via **<https://freddiemacsats.com>**.

**(b) Freddie Mac review of Servicer Selection Form**

After Freddie Mac receives the Servicer Selection Form, Freddie Mac will notify the Servicer via the Servicer's registered e-mail address with SATS whether Freddie Mac:

- Objects to the Servicer's retention of the firm to handle Freddie Mac Default Legal Matters
- Has no objection to Servicer's retention of the firm to handle Freddie Mac Default Legal Matters; or
- Needs additional information or documentation, or due diligence to be conducted before deciding whether the firm may be retained. If requested, the Servicer must provide any additional information or documentation to Freddie Mac via **<https://freddiemacsats.com>**, and must conduct any further due diligence requested by Freddie Mac within the time period stated in Freddie Mac's request.

**(c) Freddie Mac's response to Servicer firm selection**

**(i) Freddie Mac provides a "no objection" response**

The Servicer must enter into a contract with the firm (if a contract does not already exist) as further specified in Section 9501.5, to handle Freddie Mac Default Legal Matters.

**(ii) Freddie Mac provides an "objection" response**

If the Servicer determines not to retain a particular firm, or if Freddie Mac objects to the retention of a particular firm, the Servicer must notify the firm that the firm cannot be hired for Freddie Mac Default Legal Matters.

**(d) The Servicer decides not to retain firm**

The Servicer is not obligated to inform Freddie Mac:

- If the Servicer determines that a firm does not meet the Firm Minimum Requirements; or
- If the Servicer decides not to retain a firm

**(e) Diversity**

Servicers are reminded that they must be aware of, and comply with, Freddie Mac's requirements in Sections 1201.10 and 1301.2. The Servicer must commit to practice the

principles of equal employment opportunity and non-discrimination in all its business activities, including the retention and hiring of firms retained pursuant to this section.

## **9501.5: Retention of firm (03/02/16)**

### **(a) Servicer contract with firm**

If the Servicer has not already entered into a contract with a selected firm and Freddie Mac has provided a “no objection” determination, then the Servicer must enter into a contract with the firm. The Servicer must notify Freddie Mac when the contract has been executed by updating the Servicer Attorney Tracking System (SATS) via <https://freddiemacsats.com>, and must provide a copy of the contract to Freddie Mac, upon request.

### **(b) Freddie Mac limited retention agreement with firm**

Freddie Mac will enter into a limited retention agreement that sets forth certain key retention provisions with each selected firm for each State in which the firm has received a “no objection” determination.

### **(c) Conflict between Servicer’s contract and limited retention agreements; Servicer’s respective consent**

The Servicer acknowledges that the limited retention agreement recognizes and reflects a joint attorney-client relationship between the law firm, Freddie Mac and the Servicer, and the Servicer consents to such joint representation. The Servicer consents, in advance, to the selected firm's representation of Freddie Mac in any Freddie Mac Default Legal Matter that is or might be adverse to the Servicer, and further agrees that the firm can use in such representation any information the firm gained in the course of jointly representing the Servicer and Freddie Mac. In the event of any inconsistency or conflict between the terms and conditions of the Servicer’s contract with the selected firm and the terms and conditions of Freddie Mac’s limited retention agreement with the firm, Freddie Mac’s limited retention agreement shall control.

## **9501.6: Training of firms (03/02/16)**

### **(a) Training prior to referral**

The Servicer must not refer any Freddie Mac Default Legal Matters to a firm until the Servicer verifies that the firm has executed a limited retention agreement with Freddie Mac and has completed Freddie Mac’s new firm training.

A firm is only required to attend Freddie Mac’s new firm training once regardless of the number of Servicers that select and retain the firm.

## **(b) Ongoing training**

The Servicer must ensure that each firm obtains appropriate training to keep the firm apprised of updated Freddie Mac requirements. If the Servicer provides its own standard training and/or other communication materials to a firm, the Servicer must include information regarding Freddie Mac's requirements.

# **9501.7: Referral of Freddie Mac Default Legal Matters to firm (03/02/16)**

## **(a) Requirements prior to referral**

Prior to referring a Freddie Mac Default Legal Matter to a firm, the Servicer must confirm that the firm is eligible to receive a referral by ensuring that:

- The firm meets the Firm Minimum Requirements, as specified in Section 9501.3
- Freddie Mac has provided a “no objection” determination, as specified in Section 9501.4
- The firm has executed a contract with the Servicer requiring the firm to comply with all applicable Freddie Mac requirements, as specified in Section 9501.5
- The firm has executed a limited retention agreement with Freddie Mac, as specified in Section 9501.5
- The firm has completed Freddie Mac training and any additional Servicer training, as specified in Section 9501.6; and
- There are no conflicts of interest with respect to the retention of the firm and referral of Freddie Mac Default Legal Matters to the firm

## **(b) Diversification of referrals**

The Servicer must diversify its referrals of Freddie Mac Default Legal Matters to an appropriate number of firms in each State to protect the interests of Freddie Mac and to mitigate the risks related to a high concentration of Freddie Mac files. In selecting firms for referrals, the Servicer must consider firm capacity and management of staff to file ratios.

## **(c) Bankruptcy and foreclosure matters**

The Servicer must not refer foreclosure matters directly to trustees listed on the deeds of trust.

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Refer to Section 9401.10 for additional referral requirements.

#### **(d) Providing documentation to firm**

The Servicer must identify a file as a Freddie Mac Default Legal Matter when sending the file to a firm. When referring a file to a firm, the Servicer must provide all documentation required to initiate a foreclosure. If the firm requests any additional information and/or documentation at any time, the Servicer must provide such requested information and/or documents within three Business Days after receipt of the request, or within such earlier time frame if necessary to comply with timing requirements under applicable law or court orders and procedures.

For any Mortgage that the Servicer refers for foreclosure that is subsequently repurchased by the Servicer, whether voluntarily or involuntarily, the Servicer must notify foreclosure and/or bankruptcy counsel within two Business Days of the completed repurchase. (See Chapter 3602 for additional information about repurchases.)

#### **(e) Contingency plan**

All Servicers must have a contingency plan in place, either in the form of a stand-alone document or incorporated into policies and procedures, to redirect new foreclosure and bankruptcy referrals.

## **9501.8: Prohibitions related to Freddie Mac Default Legal Matters (03/02/16)**

Servicers must not require the firm to perform any foreclosure or bankruptcy-related services on any Freddie Mac Default Legal Matter without compensation.

#### **(a) Prohibition against charging for, contracting for, or making arrangements to receive benefits for Servicing obligations**

A Servicer, whether acting directly or through an affiliate, service provider, vendor or outsourcing company, must not directly or indirectly:

- Charge Freddie Mac or the firm for any foreclosure or bankruptcy-related Servicing obligations, including expenses covered by the Servicing Spread; or
- Contract or make any arrangements with the firm whereby the Servicer (or its affiliate, service provider, vendor or outsourcing company) receives, directly or indirectly, any financial or other benefits (including, but not limited to, payments, the provision of employees or free or discounted services or products) from the firm in connection with any Freddie Mac Default Legal Matter or Freddie Mac-owned or guaranteed Mortgage

Refer to Section 8103.3 for additional information on Servicing obligations.

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## **(b) Prohibitions with respect to use of specific vendors, services and/or products**

The Servicer, and not a service provider, vendor or outsourcing company assisting the Servicer in Servicing defaulted Mortgages, must select the firm to handle Freddie Mac Default Legal Matters, and Servicers must not permit service providers, vendors, outsourcing companies, or others to participate in or influence, in any way, the Servicer's referral process.

A Servicer must not, whether acting directly or through an affiliate, service provider, vendor or outsourcing company:

- Require the firm to contract with or use a particular service provider, vendor or outsourcing company, or to use, or pay for, a particular service or product
- Refuse to refer a file to the firm because the firm chooses not to contract with or use a particular service provider, vendor or outsourcing company, or chooses not to use, or pay for, a particular service or product; or
- Charge the firm for any aspect of the file referral or management process, including, but not limited to, the use of connectivity or invoice processing systems (e.g., licensing or subscription fees, "click" charges, or any other payment) in order for the firm to provide services necessary to handle Freddie Mac Default Legal Matters (e.g., to prosecute the foreclosure or bankruptcy case)

However, a Servicer may require the firm to use certain connectivity or invoice processing systems, provided that the firm is not required to pay for the use of, or access to, such systems.

Refer to Section 9501.9 for information about use of, and reimbursement for, connectivity and invoice processing systems.

## **9501.9: Servicer use of connectivity and invoice processing system (03/02/16)**

A Servicer, whether acting directly or through any vendor, service provider or outsourcing company, may employ electronic monitoring, management, reporting or information and document delivery processes technology, referred to in this section as a "Connectivity System," and an invoice processing system as outlined below.

### **(a) Connectivity System**

A Servicer may employ a Connectivity System to assist with fulfilling Servicing obligations such as:

- Packaging and referring foreclosure and bankruptcy cases to the firm

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- Communicating information and delivering documents between the Servicer and the firm as well as any other third parties requiring access to the Connectivity System; and
- Managing and monitoring foreclosure and bankruptcy cases

If a Servicer uses a Connectivity System:

- Freddie Mac will reimburse the Servicer for the actual cost of the connectivity fee up to the maximum expense limit specified in Section 9701.11
- The Servicer must provide the firm with use of and access to the identical Connectivity System
- The Servicer must permit, or continue to permit, the firm to integrate its own technology systems with the Connectivity System at no cost to the firm; and
- The Servicer must not pass on any Connectivity System related charges to the Borrower or the firm

#### **(b) Invoice processing system**

A Servicer may employ an invoice processing system for managing the submission and payment of invoices.

If a Servicer, whether acting directly or through a vendor or outsourcing company, processes firm invoices electronically:

- Freddie Mac will reimburse the Servicer for the actual cost of the invoicing fee up to the maximum expense limits specified in Section 9701.11; and
- The Servicer must not pass on any invoice processing related charges to the Borrower or the firm

The amounts specified in Section 9701.11 for connectivity and invoice processing systems are the maximum amounts for which a Servicer may seek reimbursement for the life of the default (i.e., the duration of the foreclosure, including any Freddie Mac Default Legal Matter such as bankruptcy).

For example, if a Servicer has already referred a Mortgage to foreclosure and it then becomes necessary to take action with respect to a bankruptcy related to such Mortgage, or if a Servicer has already referred a file for bankruptcy and foreclosure has commenced following the bankruptcy referral, the Servicer may be reimbursed only for one connectivity fee. Likewise in this scenario, if the Servicer is using an invoice processing system, then the Servicer may only seek reimbursement for one invoicing fee associated with the foreclosure and for one invoicing fee associated with the bankruptcy during the life of the default.

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## 9501.10: Servicer reporting on Freddie Mac Default Legal Matters (06/29/16)

The Servicer must provide reports related to firm performance, management of foreclosure and bankruptcy processes, oversight of firm compliance and performance and other related matters as required by Freddie Mac. Servicers must ensure that all firms retained for Freddie Mac Default Legal Matters report data required by Freddie Mac directly to Freddie Mac accurately and in the time frames prescribed. This includes required daily reporting by its retained law firms, via the Attorney Data Reporting (ADR) System, of key metrics such as:

- Milestones during the lifecycle of Freddie Mac Default Legal Matters
- Delays affecting prompt and efficient completion of the Freddie Mac Default Legal Matter
- Successful loss mitigation activities
- Litigation detail during the lifecycle of certain non-routine litigation matters
- Completion of the Freddie Mac Default Legal Matter

Key metrics generally must be reported to Freddie Mac within 24 hours of occurrence, unless otherwise prescribed in related training materials for the web-based attorney reporting system. Servicers may obtain access to ADR, and monitor their law firms' reporting progress, by completing the **ADR Servicer Access Request Form** available on the Freddie Mac Default-Related Legal Services web page at

[http://www.freddiemac.com/singlefamily/service/default\\_legal\\_services.html](http://www.freddiemac.com/singlefamily/service/default_legal_services.html)

## 9501.11: Servicer monitoring and management of firm (03/02/16)

The Servicer is responsible for managing and monitoring all aspects of the firm performance, providing necessary assistance to the firm relating to Freddie Mac Default Legal Matters, and for undertaking all activities required to protect Freddie Mac's interest in the Mortgage. The Servicer must also ensure that the firm is in compliance with applicable Freddie Mac requirements, and that the firm receives all training and documentation relating to applicable Freddie Mac requirements, either separately or as part of the Servicer's standard training.

### (a) Compliance processes

The Servicer must develop and have in place policies and procedures regarding oversight and compliance of firms handling Freddie Mac Default Legal Matters. The Servicer must have policies and procedures reasonably designed to ensure that firms handling Freddie Mac

Default Legal Matters are in compliance with the limited retention agreement, the applicable provisions of the Guide, and applicable law.

The Servicer's ongoing compliance monitoring must address the following minimum elements:

- Ongoing eligibility under the Firm Minimum Requirements specified in Section 9501.3
- Compliance with the limited retention agreement, including the fee and cost guidelines; and
- Firm performance and processes necessary to ensure Servicer's compliance with applicable Guide requirements

The Servicer must conduct periodic compliance reviews and training as appropriate. In determining the frequency of firm compliance reviews, the Servicer must consider the overall risk posed to Freddie Mac by the firm (legal, reputational, and financial), firm file volume, performance, any changes in staffing ratios or levels, any litigation against the firm alleging systemic issues, any media coverage regarding the firm and the prior results of any firm compliance reviews.

#### **(b) Freddie Mac review of compliance process**

Freddie Mac reserves the right to review the Servicer's compliance process. Freddie Mac may require Servicers to conduct additional compliance activities related to firms handling Freddie Mac Default Legal Matters, such as additional firm compliance reviews.

The Servicer must make available to Freddie Mac upon request the materials relating to its performance and compliance monitoring of firms handling Freddie Mac Default Legal Matters, including:

- Information regarding the scope and methodology of the Servicer's compliance monitoring
- The schedule of firm compliance reviews conducted
- The identity of any vendors used in the firm compliance reviews
- All documentation from the firm compliance reviews; and
- All findings, reports or remediation plans resulting from the firm compliance reviews

In addition, Freddie Mac may require a Servicer to change the scope of its compliance process used to monitor firms handling Freddie Mac Mortgages.

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**(c) Freddie Mac right to audit firm**

Freddie Mac also reserves the right to directly conduct firm audits and firm on-site visits as Freddie Mac deems necessary. Freddie Mac audits and visits may focus on items such as fee and cost compliance, Servicer compliance with Freddie Mac requirements, and high-risk issues, including compliance with applicable laws, reputational risk, unsatisfactory results of Servicer firm compliance reviews and conflicts of interest involving Freddie Mac-owned or guaranteed Mortgages.

## **9501.12: Escalation of firm issues to Freddie Mac (03/02/16)**

**(a) Escalation of issues**

The Servicer must notify Freddie Mac via e-mail (**see Directory 1**), within two Business Days of discovery or sooner if circumstances warrant, if the Servicer becomes aware of any issues or concerns relating to a firm (including a specific employee or vendor of a firm), or a Freddie Mac Default Legal Matter, including, but not limited to:

1. Any information regarding a firm that may warrant a firm's suspension, termination or Servicer request to transfer Freddie Mac Default Legal Matters to another firm
2. Information suggesting legal or reputational risk posed by the firm such as bar complaints, sanctions, or litigation alleging systemic issues with the firm, firm attorney, or the firm's practices
3. Security incidents that compromise the security, confidentiality or integrity of "sensitive customer information" and that security incident is related to Freddie Mac-owned or guaranteed Mortgages (refer to Section 1301.2(f))
4. Actual or alleged fraud on the part of the firm
5. Federal, State, or local governmental inquiries, including congressional inquiries, regarding a firm, Freddie Mac-owned or guaranteed Mortgages, or Freddie Mac or Servicer practices affecting Freddie Mac-owned or guaranteed Mortgages
6. Non-routine litigation (as described in Section 9402.2)
7. Media inquiries relating to Freddie Mac, a firm, or Freddie Mac-owned or guaranteed Mortgages
8. Volume or capacity issues with the firm

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9. Breach of the limited retention agreement between the firm and Freddie Mac, or the contract between the firm and the Servicer
10. Legal matters such as regulatory updates and specific reporting on certain matters (e.g., transfer tax matters)
11. Any systemic issues with the firm
12. Systemic Servicer issues related to file suspensions and foreclosure holds (e.g., failure to properly implement new statutory changes); and
13. Any material change in the ownership, partnership, or organization of the firm after executing the limited retention agreement. Such notifications should include instances where a named partner leaves the firm or a major practice group separates from the firm.

**(b) Procedures relating to issues and concerns**

When a Servicer provides Freddie Mac notice of an issue requiring Freddie Mac's attention, the Servicer must designate in its e-mail one or more points of contact. Freddie Mac may request that the Servicer obtain additional information from the firm regarding the issue that was escalated to Freddie Mac, and the Servicer must promptly provide the requested information to Freddie Mac.

**(c) Freddie Mac rights**

Freddie Mac reserves the right to issue direction to Servicers and firms regarding escalated issues. Refer to Section 9501.15 for more information about Freddie Mac's reservation of rights

**(d) Escalated issue – confidential information**

Any issue that is identified and escalated to or by Freddie Mac pursuant to this section (other than non-routine litigation) is considered to be "confidential information" as defined in Sections 1201.8 and 8101.8. The Servicer must comply with the requirements of such sections with respect to treatment of any escalated issue.

## **9501.13: File transfers, termination and suspension of firms (05/18/16)**

**(a) Servicer-directed suspension of referrals, Freddie Mac Default Legal Matter transfers and terminations**

If a Servicer becomes aware of information regarding a firm's handling of Freddie Mac Default Legal Matters that might warrant a suspension of referrals of new Freddie Mac Default Legal

Matters, the transfer of Freddie Mac Default Legal Matters to another firm, and/or termination of the firm (such as for legal, reputational, or operational risk), the Servicer must:

- Notify Freddie Mac within two Business Days via e-mail or sooner if circumstances warrant, as set forth in Section 9501.12; and
- Conduct due diligence with respect to the issue

If the Servicer intends to suspend referrals of new Freddie Mac Default Legal Matters, transfer Freddie Mac Default Legal Matters, and/or terminate a firm, the Servicer must provide Freddie Mac with at least five Business Days' notice (**see Directory 1**) prior to implementing the decision. Additionally, the notification must provide Freddie Mac with the implementation plan for the course of action chosen by the Servicer, pursuant to Section 9501.14.

For the transfer of Freddie Mac Default Legal Matters, once a Servicer has determined the eligible law firm(s) that will receive such file transfers, the following must also be included in the notification to Freddie Mac:

- Servicer name and the six-digit Seller/Servicer number
- The nine-digit Freddie Mac loan number
- Servicer loan number
- Date of transfer
- Original law firm name
- New law firm name
- Freddie Mac Default Legal Matter being transferred (e.g., foreclosure, bankruptcy proof of claim (POC) or bankruptcy motion for relief (MFR)) to the new law firm
- The State in which the Mortgaged Premises is located

In addition, the Servicer must:

- Upon request, provide Freddie Mac with the reason for the decision and the due diligence materials or other information supporting the decision
- Inform the firm of the decision; and
- Keep Freddie Mac periodically updated with respect to the status of implementation of the decision

Refer to Section 9501.14 for additional information relating to implementation of terminations, transfer of Freddie Mac Default Legal Matters and suspensions.

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## **(b) Freddie Mac-directed suspension of referrals, matter transfers and terminations**

Freddie Mac may direct the Servicer to initiate an investigation of a firm if Freddie Mac becomes aware of information that might warrant a suspension of referrals of new Freddie Mac Default Legal Matters, the transfer of Freddie Mac Default Legal Matters, or termination of the firm. Freddie Mac also may conduct due diligence and investigations as necessary. Freddie Mac may instruct Servicers to suspend some or all referrals of new Freddie Mac Default Legal Matters, to transfer some or all existing Freddie Mac Default Legal Matters, or to terminate a firm.

In the event of a decision by Freddie Mac to suspend referrals of new Freddie Mac Default Legal Matters, transfer Freddie Mac Default Legal Matters, or terminate a firm, Freddie Mac will:

- Inform the Servicer of the decision and provide direction with respect to required Servicer actions, including direction with respect to transfers of Freddie Mac Default Legal Matters
- Inform the firm of the decision and provide direction to the firm with respect to required firm actions; and
- Terminate the limited retention agreement between Freddie Mac and the firm, as appropriate

## **(c) Documentation of due diligence review**

The Servicer must maintain documentation of the due diligence review, the Servicer's decision, and all other information supporting the decision for a period of seven years after such decision.

# **9501.14: Implementing file transfers and/or the termination and suspension of firms (03/02/16)**

## **(a) Implementation plan**

Prior to implementing any decision to terminate a contract with a firm, suspend referrals of new Freddie Mac Default Legal Matters and/or transfer Freddie Mac Default Legal Matters from a firm, the Servicer must develop an implementation plan which addresses:

- File transfers
- The capacity of other eligible firms in the State to handle additional Freddie Mac Default Legal Matters and/or transferred Freddie Mac Default Legal Matters
- Proration of fees and costs between the transferor and transferee firms

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- Contract provisions during any transition period, including insurance; and
- Other issues as necessary

The implementation plan must take into account any legal, operational or reputational risks that may arise during the transition period, and must address these risks in the most cost-efficient and effective manner. Freddie Mac reserves the right to require the modification of the implementation plan, and provide additional Servicer requirements relating to the termination of any firm, the suspension of referrals of new Freddie Mac Default Legal Matters and the transfer of Freddie Mac Default Legal Matters.

**(b) Servicer monitoring of implementation plan**

The Servicer must take all necessary steps to ensure that the implementation plan proceeds in an orderly manner and that all Freddie Mac interests are protected during the implementation. Such steps include, but are not limited to:

- Transferring files relating to Freddie Mac Default Legal Matters to eligible firms
- Addressing any issues arising from the transfer of files, the suspension of referrals and the termination of a firm
- Reporting periodically to Freddie Mac on the status of the plan, including such details as how many files are transferred to each new firm, which new firms receive the files and the timing of transfers; and
- Such other details as requested by Freddie Mac

Servicers may not charge Freddie Mac or Borrowers for any fees or costs associated with transferring Freddie Mac Default Legal Matters, and such amounts may not be added to Borrower Mortgage balances.

**(c) Freddie Mac's rights to manage termination, suspension and/or file transfers**

Freddie Mac may decide, in its sole discretion, that the legal, operational or reputational risks necessitate Freddie Mac's management of the:

- Termination of any firm with respect to its handling of Freddie Mac Default Legal Matters
- Suspension of referrals of Freddie Mac Default Legal Matters to a firm; and/or
- Transfers of files relating to Freddie Mac Default Legal Matters

In such case, the Servicer must cooperate with Freddie Mac in such management and provide all necessary documentation, files and information as requested by Freddie Mac.

## **9501.15: Reservation of rights and remedies for non-compliance concerning litigation (03/02/16)**

Freddie Mac reserves the right to direct and control all litigation involving a Freddie Mac loan. The Servicer and firm handling the litigation must cooperate fully with Freddie Mac in the prosecution, defense or handling of the matter.

In addition, Freddie Mac reserves the right to:

1. Select the foreclosure counsel for a particular case, whether the case is routine or non-routine litigation
2. Direct and manage the actions taken by the foreclosure counsel, on a case-by-case or individual State basis
3. Assess additional compensatory fees against the Servicer and/or seek repayment of losses, costs or damages from the Servicer sustained due to errors, omissions or delays by the Servicer or its agent; and
4. Direct and manage the actions taken by Servicers and firms relating to escalated issues specified in Section 9501.12

### **Remedies for non-compliance**

If a Servicer fails to comply with the provisions under Chapter 9501, Freddie Mac, in its sole discretion, and in addition to any other remedies specified in the Guide or the Servicer's other Purchase Documents, reserves the right to:

- Refuse to reimburse the Servicer for any legal fees and costs
- Offset the entire legal fee from future foreclosure expenses otherwise eligible for reimbursement from Freddie Mac or seek the Servicer's reimbursement of the entire legal fee with interest, if Freddie Mac has already reimbursed the Servicer for the costs involved in the particular foreclosure or bankruptcy
- Require the Servicer to reimburse the firm or Freddie Mac for any prohibited payments or other financial benefits
- Prohibit the Servicer from contracting, directly or through any service provider, vendor or outsourcing company, with a firm with respect to products or services ancillary to a foreclosure or bankruptcy case
- Prohibit the Servicer from contracting with the service provider, vendor or outsourcing company involved in the prohibited activities with respect to Freddie Mac-owned or guaranteed Mortgages

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- Seek Servicer repayment of losses, costs or damages sustained by Freddie Mac due to errors by the Servicer or its agent; and/or require repurchase of impacted Mortgage

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