

LENDERS COMPLIANCE GROUP

Mortgage Risk Management

ADVISORY BULLETIN

December 11, 2008

FANNIE MAE ISSUES NEW LOAN MODIFICATION GUIDELINES

Servicer Flexibility

On December 8, 2008, Fannie Mae announced¹ a series of actions designed to help borrowers and loan servicers address potential mortgage problems and prevent unnecessary home foreclosures on single-family loans it owns or guarantees.² These new guidelines are meant to supplement Fannie's existing streamlined loan modification program (SMP).

Foreclosure Prevention Options

These supplemental guidelines will include the following prevention options:

- 1) Specific direction to servicers to provide foreclosure prevention assistance as soon as a borrower demonstrates the need for help -- **even if a borrower is current but default is reasonably foreseeable.**
- 2) Fannie's new **Early Workout™** program allowing servicers, in one step, to pre-negotiate a loan modification that becomes effective and permanent only after an initial trial period. The Early Workout process can begin as soon as a borrower demonstrates the need for a loan modification -- even if a borrower is current but a default is reasonably foreseeable.
- 3) **Doubling of the maximum forbearance and repayment plan periods** for most loans to borrowers in need of loan workouts.
- 4) A **new 2009 Single-Family Master Trust Agreement** and servicer guidance that give Fannie Mae servicers the flexibility to remove a loan from an MBS pool once the loan is one month delinquent for the purpose of a loan modification. This applies only to loans backing securities issued on or after January 1, 2009. Trust agreements for pools issued before that date do not allow for this flexibility. (However, the Early Workout does give servicers the tools necessary to address problem loans as early as necessary, regardless of MBS pool date.)

Early Workout™ Program

The Early Workout program requires the borrower to sign a single document at the beginning of the process to establish a new monthly payment during a trial period. If the borrower successfully makes the new payments during the trial period, the workout will convert to a permanent modification. The Early Workout program can be used if a delinquency has either occurred or is confirmed to be reasonably foreseeable.

A loan modification under the SMP, which is scheduled for implementation on December 15, 2008, will be proactively offered to borrowers who have missed three payments and whose loans and financial conditions meet certain pre-set criteria. As an additional option, the Early Workout is available for any troubled Fannie Mae loan, regardless of delinquency status, when the borrower qualifies under Fannie's servicing guidelines. The terms of an Early Workout will depend on the servicer's assessment of an individual borrower's situation.

Forbearance and Repayment Plans

Whenever allowed by the MBS Trust documents, the maximum period of forbearance (when a borrower's payments are suspended or reduced) has been increased for most mortgages from 6 months to 12 months. Additionally, the maximum length of a repayment plan (when a borrower makes additional payments over an extended period to bring a loan current) has been increased for most mortgages from 18 months to 36 months, including any periods of forbearance.

MBS Trust – New and Amended

In connection with these changes, Fannie issued a new **2009 Single-Family Master Trust Agreement**, an **Amended and Restated 2007 Single-Family Master Trust Agreement**, a new **Single-Family based Prospectus**, and certain updates to its servicing guidelines.³

Fannie's MBS Trust agreements generally require that the servicer of an MBS mortgage loan remove the mortgage loan from the related MBS pool prior to modifying a loan. In effect, to facilitate a loan modification and avoid a foreclosure, servicers may request that Fannie remove a loan from its MBS pool at any time after the loan has been in default for at least four consecutive monthly payments without a full cure of the delinquency.

The 2009 Single-Family Master Trust Agreement (MBS issued on or after January 1, 2009) and servicer guidance are intended to give Fannie Mae servicers the flexibility, in extraordinary circumstances, to remove a loan from an MBS pool once the loan is one month delinquent for the purpose of a loan modification.

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¹ "Fannie Mae Provides New Servicer Flexibility to Help Borrowers Avoid Foreclosure," Fannie Mae Press Release, 12/08/08

² Fannie Mae is working with its conservator, the Federal Housing Finance Agency (FHFA), and 27 lenders and servicers in the HOPE NOW Alliance to launch its streamlined loan modification program (SMP) by December 15, 2008. In addition, Fannie has directed servicers to suspend foreclosure sales and the completion of evictions on occupied single-family properties through January 9, 2009.

³ Hyperlink to Fannie's Prospectus & Related Documents:

<http://www.fanniemae.com/mbs/documents/mbs/trustindentures/index.jhtml?p=Mortgage-Backed+Securities&s=Prospectuses+%26+Related+Documents&t=MBS&q=Trust+Documents>