



May 1, 2012

Fannie Mae Updates Delinquency and Default Management Requirements

by **Carolyn Munyui**
Assistant Vice President
carolyn@bankersadvisory.com

On April 25, 2012, Fannie Mae released the announcement No. SVC-2012-06 that describes policy changes under delinquency management and default prevention. The announcement provides an update and clarification as it applies to Fannie Mae HAMP modifications, Fannie Mae Standard modifications and directive or delegated modification programs in the following categories; borrower's response package, income documentation, monthly Gross Income, property valuations and execution and recording of modification agreements. All other requirements provided by the Servicing Guide as amended remain unchanged except as noted in this announcement.

Effective Date

This announcement goes into effect immediately for all loans that become delinquent on or after the date of this announcement. Servicers are required to implement the policy changes to all loans evaluated for a modification unless otherwise indicated below.

Borrower Response Package

Servicers are encouraged to develop processes that enable secure electronic submission of all borrower response package documents between the borrower and the servicer. In accordance with the Servicing Guide, the exception for the Short Form request for individual Tax Return Transcript (IRS Form 45606T-EZ) or Request for Tax Return Tax Transcript (IRS Form 45606T-T still remains and requires the borrower to print, sign and mail to the servicer. Fannie Mae will provide an update for this requirement to allow electronic submission of IRS form 4506T-EZ and IRS Form 4506-T to the servicer within strict compliance with IRS instructions and requirements.

Income documentation for Employed Borrowers

As outlined on Uniform Borrower Assistance Form Form 710, servicers should document hardship and income supported based on the income type of no more than 90 days old as of the date a complete Borrower Response Package received from the borrower. For each borrower, salaried or hourly wage earner employee, they must provide the most recent paystub (30 days of year-to-date earnings of the current year) as required by Fannie Mae including a signed IRS Form 4506T-EZ ,or IRS Form 4506-T to complete the Borrower Response package.

continued on next page

When performing foreclosure alternatives, servicers may rely on previously obtained income documentation (no more than 90 days old) at the time of subsequent evaluation for the purpose of verification.

Determination of Gross Monthly Income

Servicers may develop an "adjusted gross income" to determine the borrower's monthly gross income. This can be done by adding an amount equivalent to 25% of the non-taxable income to the borrower's income to qualify the borrower for a Fannie Mae HAMP modification. When non-taxable income is used, Fannie Mae will provide further updates as a guidance to require the services to develop an "adjusted gross income" for Fannie Mae HAMP modifications.

Effective July 1, 2012, the following updated requirements will take effect for any mortgage loans evaluated a Fannie Mae HAMP modifications on or after July 1, 2012. Underwriting a borrower for all other Fannie Mae Mortgage loan modifications, additional guidance will be provided to determine the borrower's monthly gross income for modification evaluations done on or after July 1, 2012.

The borrower's "monthly gross income" is defined as the borrower's monthly income amount before any payroll deductions including wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, other compensation for personal services, Social Security payments (including Social Security received by adults on behalf of minors or by minors intended for their own support), and monthly income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, rental income, and other income such as adoption assistance. Servicers may not consider unemployment insurance benefits or any other temporary sources of income related to employment, such as severance payments, as part of the monthly gross income for mortgage loans being evaluated for a mortgage loan modification.

Loan Modifications for Mortgage Loans secured by Leasehold Estates 183

Servicers should determine modification eligibility when title to the property is held as a leasehold estate. The term of the leasehold estate must not expire prior to the new maturity date of the modified mortgage loan or otherwise, the terms of the leasehold estate must be renegotiated to satisfy this requirement. When leasehold estate terms cannot be extended, and the servicer deems a modification as appropriate based on borrower's circumstances, servicer must submit case through HSSN to Fannie Mae. Fannie Mae purchases or securitizes fixed-rate and adjustable-rate first mortgages that are secured by leasehold estates in areas in which this type of property interest has received market acceptance.

Property Valuation

It is the servicer's responsibility to ensure mortgage loan modifications are in compliance with applicable laws in accordance with the Servicing Guide. Determining if ECOA requires property valuations in conjunction with mortgage loan modifications is also a servicer's responsibility. This is announcement updates the requirement by Fannie Mae to provide borrowers with a copy of the property valuation in conjunction with loan modification.

Executing and Recording Modification

Agreement: It is the servicers' responsibilities to ensure Loan Modification Agreement are executed by borrower(s) in a recordable form within applicable state or local laws. This announcement provides an update by Fannie Mae as a requirement for properties located in the state of New York or Cuyahoga County, Ohio. All other requirements for executing, processing, and recording Loan Modification Agreements remain unchanged and are provided below.

Servicers must ensure modified loans maintain first lien position and is fully enforceable including the Fannie Mae HAMP modifications.

For loans evaluated for a modification or modified loans converting from Trial period plan to a permanent modification on or after the date of this announcement, the Loan Modification Agreement must be executed by the borrower in a recordable form under the following circumstances.

If State or local law requires modification agreement be recorded to be enforceable:

- If capitalization amount exceeds \$50,000
- If the final loan modification interest rate exceeds the pre-modified interest rate in effect on Mortgage loan
- If the remaining term on the mortgage loan is less than or equal to ten years and the servicer is extending the term of the mortgage loan to more than ten years beyond the original maturity date.
- If the servicer's practice for modifying mortgage loans in the servicer's portfolio is to create modification agreements in recordable form.

In addition, to retain the first-lien position, servicers must:

- Ensure all real estate taxes and assessments that could become a first lien are current, especially those for manufactured homes taxed as personal property, personal property taxes, condominium/HOA fees, utility assessments (such as water bills), ground rent, and other assessments;

- Obtain a title endorsement or similar title insurance product issued by a title insurance company if the amount capitalized is greater than \$50,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under Fannie Mae's mortgage modification alternatives); or if the final interest rate on the modified mortgage loan is greater than the interest rate in effect prior to modification of the mortgage loan; and

- Record the executed Agreement if state or local law requires the modification agreement be recorded to be enforceable; the amount capitalized is greater than \$50,000 (aggregate capitalized amount of all modifications of the mortgage loan completed under Fannie Mae's modification alternatives); the final interest rate on the modified mortgage loan is greater than the interest rate in effect prior to modification of the mortgage loan; or the remaining term on the mortgage loan is less than or equal to ten years and the servicer is extending the term of the mortgage loan more than ten years beyond the original maturity date.

Carolyne is A.V.P. and Director of Quality Assurance Research for Bankers Advisory. She formerly worked as a project manager for Fannie Mae in the National Loan Servicing Organization in Dallas, Texas.