Bankers Advisory
COMPLIANCE MONITOR

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Fannie Mae Updates Servicing Policy and Clarifies Quality Control

By Anna DeSimone

February 14, 2014, Fannie Mae issued Ann. SVC-2014-04: Miscellaneous Servicing Policy Updates. This Announcement clarifies and updates policies regarding:

- Individual mortgage loan files
- Servicing quality control reviews
- Final requests for reimbursement
- Attorney expense
- Transfer of variances and waivers

This article covers the information pertaining to Individual mortgage loan files and Quality Control. Please refer to Ann. SVC-2014-04 for information on the topics of reimbursement, attorney expense and transfers of variances.

Individual Mortgage Loan Files

Servicing Guide, Part I, Section 405.01:

Fannie Mae is clarifying its requirements for retaining mortgage loan servicing records. The servicer must retain in the mortgage loan servicing file all supporting documentation for all expense reimbursement claims (for example, vendor invoices and third-party invoices from the vendor rendering services), in addition to other servicing and liquidation information such as property inspection reports, copies of delinquency repayment plans, copies of disclosures of ARM interest rate and payment changes, documents related to insurance loss settlements, and foreclosure records, as stated in the *Servicing Guide*.

Servicers are reminded that after a mortgage loan is liquidated, the servicer must keep the mortgage loan servicing file for at least four years (measured from the date of payoff or the date that any applicable claim proceeds are received), unless the local jurisdiction requires longer retention or Fannie Mae specifies that the records must be retained for a longer period.

In all instances, the servicer must document its compliance with all Fannie Mae policies and procedures, including but not limited to, timelines that are required in the *Servicing Guide*. The servicer must maintain in the individual mortgage loan file all documents and system records that preserve Fannie Mae's ownership interest in the individual mortgage loan.

Servicing Quality Control Reviews

Fannie Mae is clarifying its requirements] regarding mortgage loan servicing files requested by Fannie Mae for the purpose of confirming that the mortgage loan has been serviced in accordance with the Lender Contract. When Fannie Mae requests a mortgage loan servicing file for a quality control review, the servicer must include supporting documents for all expense reimbursement claims it has submitted or intends to submit to Fannie Mae (for example, vendor invoices). [SVC-2012-21]

Servicing Guide Updates to Conform to the FHFA Directive on Harmonized Contracts
(Announcement SVC-2012-21)

The requirements contained in this Announcement are consistent with the Federal Housing Finance Agency's (FHFA) directive to Fannie Mae and Freddie Mac to align the selling and servicing contracts. This Announcement supplements the requirements currently contained in the Lender Contract and is not intended to replace or limit any existing requirements except where specifically stated. The goal in establishing and clarifying these standards is to ensure that sellers and servicers who do business with Fannie Mae can fully understand the financial and operational responsibilities of being a Fannie Mae approved seller and/or servicer. Some of these standards are new, while others are clarifications of existing rights that are currently available to Fannie Mae.

With this Announcement Fannie Mae is introducing additions and revisions to existing policies and practices including requirements dealing with:

- Performance Metrics for Performing and Non-Performing Loans
- Servicer Violations and Remedies
- Compensatory Fees
- Events of Default
- Servicing Terminations and Transfer of Servicing Remedies
- Response Time Frames and Appeal Process for Remedies
- Miscellaneous Contractual Changes

Except for the revisions outlined in this Announcement, Fannie Mae is not modifying the Fannie Mae *Servicing Guide*. Unless stated otherwise, the effective date of the provisions in this Announcement will be January 1, 2013.

Performance Metrics for Performing and Non-Performing Loans

Part I, Section 202: Servicer's Basic Duties and Responsibilities is revised to add the following language at the end of the last paragraph:

In order to determine the servicer's compliance with its servicing duties under the Lender Contract, Fannie Mae measures the servicer's performance utilizing various performance metrics, which may include servicer reviews and the Servicer Total Achievement & Rewards (STAR) Program for those servicers which Fannie Mae has identified for inclusion in the Program. Servicers selected to participate in STAR will receive written notification from Fannie Mae prior to being added into the program. STAR encompasses Operational Assessments and Scorecards.

STAR is one of Fannie Mae's performance management frameworks designed to determine a servicer's overall performance based on Operational Assessments and Scorecards. The *STAR Reference Guide* is the program's primary information resource. The *STAR Reference Guide* is located on Fannie Mae's website on the STAR program page and is incorporated herein by reference. Fannie Mae may change the *STAR Reference Guide* from time to time.

Operational Assessments and servicer reviews measure a servicer's performance based on key criteria in certain servicer performance categories, which may include, without limitation: customer service; escrow administration; hazard, flood and mortgage insurance; collections; loss mitigation; investor relations/reporting; mortgage payment processing, remitting, accounting and reporting; bankruptcy, foreclosure and REO management; data integrity; delinquency and annual financial and management reporting; and document custody and record retention. Fannie Mae reserves the right to amend the performance criteria, modify how the results are determined and revise the content of the performance metrics from time to time.

Fannie Mae may also communicate individual performance targets which may not be included in the STAR Program Operational Assessments and Scorecards. Fannie Mae will regularly monitor each servicer's performance.

Fannie Mae considers factors such as trends in performance, adequacy of staffing, compliance reviews and audits, STAR results, loan file reviews, timeliness of its payment obligations and overall compliance with the requirements of the Lender Contract in evaluating whether the servicer's overall performance is unacceptable for purposes of Part I, Section 201.09, Breach of Contract of the *Servicing Guide*. A servicer will be presumed to have unacceptable STAR results if the servicer's STAR ranking is in the bottom 25% of ranked servicers. Servicers with unacceptable performance, including those who are presumed to have unacceptable performance because their STAR ranking is in the bottom 25% of ranked servicers, may be required, in Fannie Mae's sole discretion, to enter into a performance improvement plan. The performance improvement plan may be an alternative to the immediate termination of the Lender Contract. Fannie Mae reserves the right to terminate a servicer's Lender Contract in whole or in part, including its selling and/or servicing arrangement at any time with or without cause, in accordance with the Lender Contract.

Servicer reviews, Scorecards, and Operational Assessments are considered to be "confidential information" for purposes of the *Servicing Guide*.

Performance Improvement Plans

Fannie Mae expects all servicers to service all mortgage loans in full compliance with the Lender Contract. A servicer's performance may be measured by Fannie Mae through any number of servicing quality and compliance reviews, including the STAR program, servicer reviews, as well as, timely payment of its obligations, compliance with the *Servicing Guide*, and other key performance metrics.

Servicers with unacceptable performance, including those that are presumed to have unacceptable performance because their STAR ranking is in the bottom 25% of ranked servicers, may be subject to a performance improvement plan issued by Fannie Mae.

Performance improvement plans may require the servicer to take actions and/or meet targets within defined time frames in order to remedy servicing deficiencies which may include one or more of the following areas:

customer service; escrow administration; hazard, flood and mortgage insurance; collections; loss mitigation; investor relations/reporting; mortgage payment processing, remitting, accounting and reporting; bankruptcy, foreclosure and REO management; data integrity; delinquency and annual financial and management reporting; and document custody and record retention.

The failure of the servicer to meet the terms of its performance improvement plan, including any timeline requirements for the performance improvement, will constitute a breach of the Lender Contract and may result in Fannie Mae terminating the servicer's selling and/or servicing approvals in whole or in part or taking other appropriate actions under its Lender Contract.

[refer to the Guide for additional information contained within this section]

Delayed Remittance of FHA Claim Settlement

Servicing Guide, Part VIII, Section 204: Filing Claims for FHA Coinsured Mortgage Loans

As soon as the servicer receives the HUD claim settlement from a claim filed after sale of an FHA coinsured mortgage loan, it must remit the full amount it owes Fannie Mae. If the payment is not sent to Fannie Mae within 15 days after it is received, Fannie Mae may impose a daily interest charge until it does receive it. This interest charge will be calculated at the prime rate (as published in *The Wall Street Journal*'s prime rate index) that was in effect on the first business day of the month in which HUD transferred the funds to the servicer, plus 3%.

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