

Announcement 08-31

December 8, 2008

Amends these Guides: Selling and Servicing

Fannie Mae 2009 Single-Family Master Trust Agreement, the Amended and Restated 2007 Single-Family Master Trust Agreement, and Certain Servicing Clarifications and Changes, Including Expanded Loss Mitigation Flexibility

Introduction

This Announcement addresses several topics including introducing a new 2009 Single-Family Master Trust Agreement (the "2009 Trust Agreement") and an Amended and Restated 2007 Single-Family Master Trust Agreement (the "2007 Amended Trust Agreement"), and updating and clarifying servicing requirements and policies related to mortgage loans in MBS pools (including Pooled from Portfolio (PFP) loans), as well as whole loans held in Fannie Mae's portfolio. Recognizing that beginning loss mitigation efforts earlier will provide servicers with flexibility needed to better address current market challenges, keep borrowers in their homes and avoid foreclosure of delinquent mortgage loans, Fannie Mae is introducing expanded loss mitigation flexibilities to provide servicers with more options to create an appropriate loss mitigation strategy designed to help borrowers bring their mortgage loans current.

This Announcement covers the following topics:

1. Single-Family Master Trust Agreements and Indentures
2. Default reasonably foreseeable (imminent default)
3. Early Workout™
4. Revised timing for removal of loans from MBS pools for loan modification
5. Forbearance terms - clarification
6. Repayment plan terms - clarification
7. General requirements related to loss mitigation
8. Mortgage loans that are 24 months past due
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10. No netting of purchase price of REO property against funds in a custodial account
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1. Single-Family Master Trust Agreements and Indentures

Fannie Mae is introducing the 2009 Trust Agreement that will be used for both fixed- and adjustable-rate Single-Family loan pools delivered to Fannie Mae, and PFP mortgage loans included in pools, for MBS to be issued on or after January 1, 2009. The 2009 Trust Agreement is effective January 1, 2009, and all MBS issued on or after that date will be pooled under the new 2009 Trust Agreement.

In addition to introducing the 2009 Trust Agreement, Fannie Mae is amending and restating the June 1, 2007 Single-Family Master Trust Agreement to clarify certain provisions.

Fannie Mae is also clarifying servicing requirements for mortgage loans in MBS pools. As explained in this Announcement, some servicing requirements may vary depending on the MBS trust documents under which a particular MBS mortgage loan was pooled. Accordingly, it is important to identify and distinguish among the following three categories of MBS trust documents.

- **1980's Indentures:** The various fixed-rate or ARM Trust Indentures (each, a "1980's Indenture") for pools of mortgage loans in MBS with issue dates up to and including May 1, 2007;
- **2007 Amended Trust Agreement:** The 2007 Amended Trust Agreement for pools of mortgage loans in MBS with issue dates from June 1, 2007 through December 1, 2008; and
- **2009 Trust Agreement:** The 2009 Trust Agreement for pools of mortgage loans in MBS with issue dates on or after January 1, 2009.

In its *Servicing Guide* or through its contracts with servicers, Fannie Mae from time to time may limit the availability and application of certain servicing terms stated in a trust document. Thus, the *Servicing Guide* may be more restrictive than the MBS trust documents with respect to servicing provisions, but neither the *Servicing Guide* nor any contractual agreement (including variances and waivers) with a servicer may be more expansive than or otherwise inconsistent with the MBS trust documents. Although the 2009 Trust Agreement allows certain loan modifications while a defaulted loan is in an MBS pool, all modifications remain unavailable at this time for MBS mortgage loans while they are in MBS pools.

The executed 2009 Trust Agreement and the 2007 Amended Trust Agreement are available on www.FannieMae.com.

Identification of the Applicable MBS Trust

Currently, loss mitigation alternatives with respect to mortgage loans in MBS pools are applied across all pools, regardless of which MBS trust documents apply to the loan. Effective on and after January 1, 2009, the availability of certain of the newly expanded loss mitigation alternatives will vary, depending on the MBS issue date and the applicable MBS trust documents for a particular loan.

Fannie Mae is expanding the timing and use of loss mitigation alternatives to provide servicers with more flexibility to design a loss mitigation strategy best suited to help a particular borrower bring a mortgage loan current within a specified period of time. The use of one type or a combination of loss mitigation alternatives is determined by:

- whether the loss mitigation alternative is available for the MBS mortgage loan based on which MBS trust documents apply to the MBS mortgage loan;
- the facts and circumstances related to the particular loan and borrower, as such facts and circumstances may change from time to time; and
- the applicable *Servicing Guide* provisions or, in the absence of *Servicing Guide* provisions, customary servicing practices of prudent servicers in servicing and administering mortgage loans for their own portfolios.

To the extent possible, Fannie Mae has attempted to make the expanded remedies available for loans in any MBS trust. Not all remedies, however, will be available for all MBS mortgage loans. Since the availability of a particular remedy for an MBS mortgage loan depends on the MBS trust documents under which that mortgage loan was pooled, the servicer will need to know the issue date of the MBS in order to determine whether an expanded loss mitigation alternative is available to a borrower. If a servicer cannot currently identify the MBS issue dates for mortgage loans in MBS pools, the servicer must adapt its systems to be able to do so by May 1, 2009. Meanwhile, as discussed further in this Announcement, certain expanded loss mitigation alternatives will be limited or unavailable unless the servicer is able to confirm the MBS issue date for the MBS pool that contains the borrower's loan.

To enable servicers to identify the MBS issue dates and the applicable MBS trust documents for PFP mortgage loans in MBS pools, Fannie Mae will provide the MBS pool issue date for each PFP mortgage loan beginning on or before February 1, 2009. Servicers must adapt their systems to be able to identify the MBS issue dates for PFP mortgage loans in MBS pools by May 1, 2009. Until the pool issue date is available on the Servicer's Ultimate Reconciliation Facility (SURF) for PFP mortgage loans, certain expanded loss mitigation alternatives will be limited or unavailable for PFP mortgage loans unless the servicer is able to confirm the MBS issue date for the MBS pool that contains the borrower's loan.

Fannie Mae has included a quick reference chart as Attachment 1 that summarizes key provisions for forbearance and repayment plans and the differences based on the applicable MBS trust documents for the mortgage loans.

2. Default Reasonably Foreseeable (Imminent Default)

Servicing Guide, Part I, Section 202: Servicer's Basic Duties and Responsibilities; Part III, Section 102.04: Repayment Plans; Section 804.04: Temporary Forbearance; Part VII, Section 302: Special Forbearance; Section 303: Repayment Plan; Section 502.02: Modifying Conventional Mortgages; Announcement 07-03R2: Reissuance of the Instructions for the Fannie Mae Single-Family MBS Master Trust Agreement; and Announcement 08-07: Expansion of Forbearance Term

Effective immediately, a servicer may begin loss mitigation efforts for any mortgage loan when a payment default is reasonably foreseeable (imminent default) rather than waiting for an actual payment default. Accordingly, a servicer may agree to one or more appropriate and permitted loss mitigation alternatives (*e.g.*, forbearance, a combination of forbearance and a repayment plan, and an Early Workout (discussed in the following section)), if the servicer has determined that a payment default is reasonably foreseeable, and a concession to the borrower in the payment terms is advisable. In determining whether a payment default is reasonably foreseeable, the servicer must evaluate the borrower's financial condition as well as the condition of and circumstances affecting the property securing the mortgage loan. The servicer also must document the basis on which it makes a determination that a payment default is reasonably foreseeable. This new rule allowing earlier intervention applies to all MBS mortgage loans and all whole loans held in Fannie Mae's portfolio.

Preforeclosure sales, acceptance of deeds-in-lieu of foreclosure, and short payoffs (accepting a payoff for less than the amount owed), will not be permitted loss mitigation alternatives for use with borrowers whose loans are current but are determined to be in imminent default.

Following is a list of examples of the types of factors the servicer may consider when evaluating whether or not a payment default is reasonably foreseeable. Factors for consideration include, but are not limited to:

- information received from the borrower (for example, changes in employment and other income sources, or family medical status);
- the payment history of the borrower(s) (as reported by a credit bureau) on other indebtedness;
- the loan-to-value (LTV) ratio of the mortgage loan when it was originated;
- an estimate of the current LTV ratio;
- whether the monthly debt service under the mortgage loan has recently changed or will soon change;
- the credit score of the borrower(s); and

- the occurrence of a natural disaster (such as a tornado, hurricane, or flood), terrorist attack or other catastrophe caused by either nature or a person other than the borrower that:
 - the servicer reasonably believes adversely affects the value or habitability of a mortgaged property; or
 - the servicer reasonably believes adversely affects the borrower’s ability to make further payments or payment in full on the mortgage loan.

A default is reasonably foreseeable when the servicer is notified or otherwise becomes aware of an event or factors (including those listed above) that is or are expected to cause the borrower to be in default in the near future, generally within 90 days.

3. Early Workout

Servicing Guide, Part I, Section 202: Servicer's Basic Duties and Responsibilities; Part III, Section 102.04: Repayment Plans; Section 804.04: Temporary Forbearance; Part VII, Section 302: Special Forbearance; Section 303: Repayment Plan; Section 502.02: Modifying Conventional Mortgages; Announcement 07-03R2: Reissuance of the Instructions for the Fannie Mae Single-Family MBS Master Trust Agreement; and Announcement 08-07: Expansion of Forbearance Term

Fannie Mae is introducing the Early Workout loss mitigation alternative that will permit the modification of a mortgage loan that will be effective if the borrower completes the applicable trial period specified below. In an Early Workout, the borrower and servicer will enter into a single agreement to modify the terms of the borrower’s loan effective as of the payment date immediately following the borrower’s successful completion of the trial period. During the trial period, the borrower must make, in a timely manner, consecutive monthly payments in an amount representing the monthly payments that would be required under the terms of the proposed loan modification.

Early Workout will be available to current borrowers whose default is reasonably foreseeable as well as to borrowers whose loans are already in default; no minimum period of delinquency will be required. Thus, as soon as borrowers are in need, servicers will be able to work with them to determine if Fannie Mae’s Early Workout is appropriate to enable the borrower to stay in his or her home and avoid foreclosure.

If the servicer has determined that a borrower’s payment default is reasonably foreseeable but no default has occurred, the trial period must include at least four consecutive monthly payments in order to demonstrate the borrower’s willingness and ability to make payments at the specified amount. If a borrower is delinquent at the start of the Early Workout agreement, the trial period must include at least three consecutive monthly payments.

An MBS mortgage loan will remain in the related MBS pool during the trial period and the servicer will continue to service the mortgage loan under the servicing guidelines applicable to MBS mortgage loans. If the borrower successfully completes the trial period, the borrower’s mortgage loan will be modified, pursuant to the terms of the Early

Workout agreement, effective as of the payment date immediately following the final trial payment. If the loan is an MBS mortgage loan, the loan will be reclassified and removed from its MBS pool before the effective date of the loan modification.

The mortgage loan will not be modified or removed from the MBS pool under the Early Workout agreement if the borrower does not make all payments required during the trial period in a timely manner.

The amount of the monthly loan payments and other terms of the proposed modified mortgage loan will be based on Fannie Mae's standard modification requirements with adjustments related to the Early Workout program, including a condition that escrow accounts will be required for all Early Workout loans. The Early Workout program specifics, related loan reclassification and reporting processes, and the Early Workout Plan and Loan Modification Agreement (Form 3168) will be available on eFannieMae.com by December 15, 2008 and trial periods under Early Workout agreements may begin on or after January 1, 2009.

Note: Early Workout is a separate loss mitigation alternative that is different, and available to a wider spectrum of borrowers, than the Streamlined Loan Modification Program (SMP) which is for seriously delinquent borrowers. SMP will be the subject of a separate Announcement to be released prior to the December 15, 2008 SMP implementation date.

4. Revised Timing for Removal of Loans from MBS Pools for Loan Modification

Servicing Guide, Part I, Section 202: Servicer's Basic Duties and Responsibilities; Part III, Section 102.04: Repayment Plans; Section 804.04: Temporary Forbearance; Part VII, Section 302: Special Forbearance; Section 303: Repayment Plan; Section 502.02: Modifying Conventional Mortgages; Announcement 07-03R2: Reissuance of the Instructions for the Fannie Mae Single-Family MBS Master Trust Agreement; and Announcement 08-07: Expansion of Forbearance Term

The *Servicing Guide* requires that the servicer of an MBS mortgage loan remove the mortgage loan from the related MBS pool prior to executing a modification agreement. Currently, MBS mortgage loans may be removed from an MBS pool only after the loan is four full monthly payments past due (or eight full payments in the case of a biweekly mortgage loan), measured by last paid installment.

General Rule for All MBS Pools

Effective immediately, this Announcement updates the *Servicing Guide* requirements to allow an MBS mortgage loan that meets the applicable loss mitigation criteria for a loan modification to be reclassified from an MBS pool, to facilitate a loan modification and avoid foreclosure, at any time after the loan has been in a continuous state of default for

at least four consecutive monthly payments (or at least eight consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency.

Limited Exception Under 2009 Trust Agreement

With respect to MBS mortgage loans in MBS with issue dates on or after January 1, 2009, the 2009 Trust Agreement provides for the permissible removal of an MBS mortgage loan from an MBS pool after the loan has been delinquent for at least one monthly payment, if the delinquency has not been fully cured on or before the next payment date (e.g., 30-days delinquent). While there is an expectation that the standard removal requirements under the *Servicing Guide* will apply in most cases, Fannie Mae recognizes that there may be extraordinary circumstances relating to a particular loan that may justify removing the loan from an MBS pool for loss mitigation purposes before the loan is in a continuous state of default for at least four consecutive monthly payments (or at least eight consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency.

On an exception basis, servicers may seek Fannie Mae's prior written consent to remove an MBS mortgage loan pooled under the 2009 Trust Agreement after the loan has been as little as one monthly payment delinquent, if the delinquency has not been fully cured on or before the next payment date (e.g., 30-days delinquent), if the servicer has determined that a loan modification is the appropriate foreclosure prevention option and that the extraordinary circumstances relating to the loan justify the earlier removal of the loan from the MBS pool to facilitate the loan modification.

For example, in the case of an MBS mortgage loan that is assumable, a borrower may find a buyer for the mortgaged property who is willing to assume the loan, but only if the loan has been modified to reflect a reduced interest rate in line with the current market rate. Under the circumstances, the servicer may decide to request Fannie Mae's permission to allow the loan to be immediately removed from the pool after the loan has been delinquent for at least one monthly payment, if the delinquency has not been fully cured on or before the next payment date (e.g., 30-days delinquent), rather than requiring that the loan be in a continuous state of default for at least four consecutive monthly payments (or eight consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency. Servicers should note that the shortened period required for removal is only available under limited circumstances with Fannie Mae's prior written consent for MBS mortgage loans in MBS issued on or after January 1, 2009.

Except under the limited circumstances described above where Fannie Mae's prior written consent has been obtained, servicers should continue to apply the same timing requirements for removal of all MBS mortgage loans as are set forth in the *Servicing Guide* and updated by this Announcement. In summary, those timing requirements are: if removal is to facilitate loan modification, continuous state of default for at least four consecutive monthly payments (or eight consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency; and, if removal is for other

reasons, four full monthly payments past due (or eight full payments in the case of a biweekly mortgage loan), measured by last paid installment.

The modification of the terms of MBS mortgage loans while they are in MBS pools will continue to be prohibited.

5. Forbearance Terms - Clarification

Servicing Guide, Part I, Section 202: Servicer's Basic Duties and Responsibilities; Part III, Section 102.04: Repayment Plans; Section 804.04: Temporary Forbearance; Part VII, Section 302: Special Forbearance; Section 303: Repayment Plan; Announcement 07-03R2: Reissuance of the Instructions for the Fannie Mae Single-Family MBS Master Trust Agreement; and Announcement 08-07: Expansion of Forbearance Term

The provisions in this section relating to forbearance apply to all mortgage loans regardless of the servicing option or recourse arrangement under which they were purchased or securitized. Forbearance means an agreement with the borrower that provides for a temporary reduction or suspension of payments.

Overall Limitations and Requirements

When a servicer offers forbearance as a loss mitigation alternative, the following limitations and requirements apply in addition to those noted in the “General Requirements” section below. A forbearance period may not extend past the last scheduled payment date of the mortgage loan.

Existing Forbearance Rule for 2007 Amended Trust Agreement Loans

Rule: Servicers may continue to offer forbearance for a maximum term of up to 6 months on any mortgage loan pooled under the 2007 Amended Trust Agreement. Fannie Mae will not approve any request to extend the 6-month maximum duration limit.

Clarified Forbearance Rule for 1980's Indentures, 2009 Trust Agreement and Portfolio Loans

Fannie Mae is clarifying below the forbearance rule as applied to MBS mortgage loans pooled under the 1980's Indentures and the 2009 Trust Agreement, and to mortgage loans held in Fannie Mae's portfolio.

Rule: A servicer may offer forbearance for periods longer than 6 months if the servicer has identified the mortgage loan as having been pooled under either a 1980's Indenture or the 2009 Trust Agreement, or the mortgage loan is held in Fannie Mae's portfolio.

Application of Rule: The following limitations apply to ensure prudent and consistent application of this clarified rule. The forbearance limitations apply regardless of whether

forbearance is offered by itself or in combination with other loss mitigation alternatives, such as a combination of forbearance and a repayment plan.

- Generally, servicers should limit forbearance to no more than 6 months.
- Any forbearance arrangement that extends for a period longer than 6 months must be in writing.
- Any forbearance arrangement that extends for a period longer than 12 months must receive prior written approval from Fannie Mae.
- When a servicer decides to grant forbearance when a payment default is reasonably foreseeable but before an actual default by the borrower, the following limitations apply:
 - Any initial forbearance period may not exceed 6 months from the date of the first scheduled reduced or suspended payment.
 - The combined period for forbearance and a repayment plan may not exceed 36 months if a servicer initially offers a combination of loss mitigation alternatives that includes both forbearance and a repayment plan and, as specified above, the initial forbearance period may not exceed 6 months.
 - After the initial forbearance period has begun, the servicer may grant whatever further loss mitigation alternatives it deems appropriate, including extending the initial forbearance and repayment periods, subject to any other limitations that may apply to such loss mitigation alternatives (*e.g.*, Fannie Mae prior written approval must be obtained if the forbearance arrangement would exceed 12 months).

Examples of circumstances when forbearance longer than 6 months may be appropriate include:

- the property securing the mortgage loan has been impacted by a disaster, including a natural disaster, and the borrower needs additional time to resolve an insurance claim, obtain a grant, obtain new employment, etc.;
- the property is located in an area in which marketing times are excessive and the borrower is trying to sell the property; and
- the borrower has experienced a significant decrease in income but has future prospects of being able to reestablish his/her prior income level.

6. Repayment Plan Terms - Clarification

Servicing Guide, Part I, Section 202: Servicer's Basic Duties and Responsibilities; Part III, Section 102.04: Repayment Plans; Section 804.04: Temporary Forbearance; Part VII, Section 302: Special Forbearance; Section 303: Repayment Plan; Announcement 07-03R2: Reissuance of the Instructions for the Fannie Mae Single-Family MBS Master Trust Agreement; and Announcement 08-07: Expansion of Forbearance Term

The provisions in this section relating to repayment plans apply to all mortgage loans regardless of the servicing option or recourse arrangement under which they were purchased or securitized. Servicers are reminded that, in a repayment plan, a borrower

must make the regular monthly payments required under the mortgage loan in addition to payments to cure the delinquency.

Overall Limitations and Requirements

When a servicer offers a repayment plan as a loss mitigation alternative, the following limitations and requirements apply in addition to those noted in the “General Requirements” section below. The repayment plan limitations and requirements apply regardless of whether a repayment plan is offered by itself or in combination with other loss mitigation alternatives, such as a combination agreement that includes both forbearance and a repayment plan.

- Any repayment plan for a period longer than 6 months in duration must be in writing.
- When a servicer structures a combination of loss mitigation alternatives that include forbearance and a repayment plan, the loss mitigation alternatives must be in writing if the combined period is greater than 12 months or if the period of either forbearance or the repayment plan is more than 6 months.
- Generally, a servicer should limit any repayment plan to a period of no more than 12 months.

Examples of circumstances when repayment plans longer than 12 months may be appropriate include:

- a borrower who has resolved a temporary hardship and is able to resume making regular monthly payments under the current contractual terms, but who is unable to resolve the arrearage using a repayment plan of 12 months or less; and
- a borrower who has been affected adversely by a disaster, including a natural disaster, and requires a lengthy repayment plan to become current.

Clarified Repayment Plan Rule for 2007 Amended Trust Agreement Loans

Fannie Mae is clarifying the repayment plan rule as applied to MBS mortgage loans pooled under the 2007 Amended Trust Agreement.

Rule: Servicers may continue to offer repayment plan terms only up to 18 months from the first day of the month in which the plan commences (its inception) on all MBS mortgage loans pooled under the 2007 Amended Trust Agreement. Fannie Mae will not approve any request to extend the 18-month maximum duration limit.

Application of Rule: Generally, a servicer should limit any repayment plan to a period of no more than 12 months.

Clarified Repayment Plan Rule for 1980's Indentures, 2009 Trust Agreement and Portfolio Loans

Fannie Mae is clarifying the repayment plan rule as applied to MBS mortgage loans pooled under the 1980's Indentures and the 2009 Trust Agreement, and to mortgage loans held in Fannie Mae's portfolio.

Rule: A servicer may offer a repayment plan for a period longer than 18 months from inception if the servicer has identified the mortgage loan as having been pooled under either a 1980's Indenture or the 2009 Trust Agreement, or the mortgage loan is held in Fannie Mae's portfolio.

Application of Rule: The following limitations apply to all repayment plans to ensure prudent and consistent application of this clarified rule:

- Generally, a servicer should limit any repayment plan to a period of no more than 12 months.
- Any repayment plan for a period longer than 36 months must receive prior written approval from Fannie Mae.
- When a servicer structures a combination of loss mitigation alternatives that include forbearance and a repayment plan, a servicer must receive prior written approval from Fannie Mae before the servicer offers a borrower a combined period greater than 36 months.

7. General Requirements Related to Loss Mitigation

Servicing Guide, Part I, Section 202: Servicer's Basic Duties and Responsibilities; Part III, Section 102.04: Repayment Plans; Section 804.04: Temporary Forbearance; Part VII, Section 302: Special Forbearance; Section 303: Repayment Plan; Announcement 07-03R2: Reissuance of the Instructions for the Fannie Mae Single-Family MBS Master Trust Agreement; and Announcement 08-07: Expansion of Forbearance Term

Servicers' Loss Mitigation Responsibilities: Servicers are encouraged to consider offering available loss mitigation alternatives in succession to create the best overall loss mitigation strategy under the facts and circumstances relating to a particular mortgage loan and borrower, within applicable time restrictions described in this Announcement.

Approval by Fannie Mae: Whenever prior written approval from Fannie Mae is required, the servicer may request approval by submitting its recommendation through its Servicing Consultant, Portfolio Manager, or the National Servicing Organization's Solution Center at 1-888-326-6438. Fannie Mae will not approve any requests to extend the applicable maximum duration limits for loss mitigation alternatives with respect to MBS mortgage loans pooled under the 2007 Amended Trust Agreement.

Agreements in writing: Whenever a loss mitigation alternative is required to be in writing, the servicer may enter into a written agreement with a borrower that is executed by both parties or, if permitted and enforceable under applicable law, the servicer may provide the borrower with a letter confirming the terms of their agreement and referencing the meeting or conversation(s) during which the agreement was reached. In the case of a confirming letter that is not signed by the borrower, unless prohibited by law, the servicer should include appropriate language to provide that, by making a payment under or acting in accordance with the terms of the agreement, the borrower is further confirming the borrower's agreement to the terms specified in the confirming letter.

The written agreement or confirming letter should clearly set out the agreement terms including, as applicable:

- the period and amount of reduced or suspended payments and the date on which the forbearance will end,
- the repayment schedule for making additional payments when the borrower resumes regular monthly payments, and
- the date by which the defaults will be cured and the loan will be brought current under the terms of the repayment plan.

Subject to compliance with applicable law, the servicer must include a provision in the agreement or confirming letter that permits the servicer to initiate or resume foreclosure if the terms of the agreement are not satisfied by the borrower. Therefore, in the case of forbearance granted to enable the borrower to sell his or her property or refinance his or her loan as a means of avoiding foreclosure, the agreement or confirming letter must include a provision that permits the servicer to initiate or resume foreclosure proceedings at the end of the forbearance period if the property has not been sold or the loan has not been refinanced. An agreement for a second mortgage must include a provision for automatic termination of the relief plan if the first mortgage goes into foreclosure.

Reporting delinquency codes: Servicers are reminded that, consistent with current policy, even if a written agreement or confirming letter is not required, the terms of loss mitigation alternatives must, at a minimum, be documented on the servicer's system and otherwise recorded in the mortgage loan file it maintains for Fannie Mae. The servicer is also responsible for submitting each month an accurate and timely "delinquency status" code (*e.g.*, status code of 09 – forbearance, status code of 12 – repayment plan, etc.) to indicate whether the borrower is in forbearance or under a repayment plan or participating in another loss mitigation alternative. Therefore, when a servicer structures a combination of loss mitigation alternatives in an agreement that includes forbearance and a repayment plan, the servicer must use status code 09 during the forbearance period (when monthly payments are reduced or suspended) and status code 12 during the repayment plan period (when regular monthly payments have resumed and additional payments are scheduled to be made to cure the delinquency). Fannie Mae relies on accurate reporting by servicers to track compliance with timing requirements and restrictions.

8. Mortgage Loans that are 24 Months Past Due

Servicing Guide, Part I, Section 208: Purchase or Mortgage Substitution Requirements; Section 208.05, Servicer's Mandatory Purchase of Certain MBS Pool Mortgages; Announcement 07-03R2; and Announcement 08-07

In Announcement 07-03R2, Fannie Mae reminded servicers that they must purchase from an MBS pool any mortgage loan that has 24 consecutive payments past due. Servicers were also reminded that this purchase requirement applies to all delinquent MBS pool mortgage loans regardless of the servicing option or recourse arrangement under which they were purchased or securitized.

In this Announcement, Fannie Mae is clarifying the 24-month purchase requirement for MBS mortgage loans pooled under any MBS trust and regardless of the servicing option or recourse arrangement under which they were purchased or securitized. Effective immediately, an MBS mortgage loan must be removed from its MBS pool if the MBS mortgage loan is at least 24 months past due, as measured from the last paid installment, unless one of the following has occurred or is occurring:

- The borrower has entered into and is complying with a repayment plan pursuant to which the arrearages on the mortgage loan are required to be paid in full and the mortgage loan brought current by the original maturity date of that loan.
- The servicer and borrower are pursuing a preforeclosure sale or a deed-in-lieu of foreclosure.
- The foreclosure process on the loan has begun.
- Applicable law (including bankruptcy law, probate law, or the Servicemembers Civil Relief Act of 2004 or other relief act) requires that foreclosure on the related mortgaged property or other legal remedy against the borrower or the related mortgaged property be delayed and the period for delay or inaction has not elapsed.
- The mortgage loan is in the process of being assigned to the insurer or guarantor that provided any related mortgage insurance or guaranty.

In order to facilitate the timely removal of regular servicing option delinquent MBS mortgage loans under the 24-month rule, Fannie Mae will continue to provide each servicer with an advance listing through Home Saver Solutions[®] Network (HSSN) of all regular servicing option delinquent MBS pool mortgages that meet the criteria for purchase. A servicer must purchase any regular servicing option mortgage loan that meets the criteria under the 24-month rule, unless it falls within one of the exceptions listed above. The purchase must be reported to Fannie Mae as activity occurring in the month that contains the due date of the 24th past due payment, or in the applicable later month if the 24-month period is extended due to a pending foreclosure, specified loss mitigation alternative or bankruptcy. A servicer may be subject to additional costs and fees assessed by Fannie Mae for any mortgage loan that the servicer does not purchase from the MBS pool in the time required.

If a special servicing option delinquent MBS mortgage loan triggers the purchase requirement under the 24-month rule, Fannie Mae will automatically reclassify the delinquent MBS mortgage loan to Fannie Mae's portfolio.

9. Foreclosure Referrals - Clarification

Servicing Guide, Part VIII, Section 102.04: Conventional and RHS First Mortgages; and Announcement 07-03R2

In Announcement 07-03R2, Fannie Mae instituted procedures to ensure that all delinquent mortgage loans in MBS pools are referred for foreclosure proceedings no later than the 210th day after commencement of delinquency or as soon thereafter as applicable law permits. Effective with the date of this Announcement, Fannie Mae will no longer post a listing on HSSN of all MBS mortgage loans that:

- have been delinquent during a period of 180 consecutive days;
- are at least four consecutive monthly payments (or 8 consecutive biweekly payments) past due; and
- were reported to Fannie Mae with no delinquency status code, or with an invalid status code (e.g., status code of 00, or 99), or with a "Charge-off" code (29), or a "Delinquent, No Action" code (42).

Instead, for loans in any MBS trust, the servicer is required to follow the *Servicing Guide*, which generally requires foreclosure to begin for most loans within 105 days of delinquency, but permits postponements to facilitate loss mitigation. Fannie Mae expects that servicers will have appropriate foreclosure referral policies that allow for foreclosure referrals to begin when all reasonable loss mitigation options have been exhausted and as soon as applicable law permits. No servicer is permitted to ignore a defaulted loan, but should promptly implement reasonable remedial actions, based on the facts and circumstances of the particular loan and borrower. If, based on the *Servicing Guide* and prudent servicing practices, the servicer determines that loss mitigation would not cure the default or result in a successful workout, then the servicer must proceed with the foreclosure process as otherwise required by the *Servicing Guide*.

Foreclosure on Loans in MBS Trusts

When foreclosure is the appropriate action, unless otherwise instructed by Fannie Mae, Fannie Mae is now requiring that servicers foreclose while loans are in the MBS trust. Unless otherwise instructed by Fannie Mae, current procedures and reporting requirements will continue to apply after the foreclosure sale, including the requirement that a servicer must purchase a regular servicing option MBS mortgage loan from the MBS pool within 60 days after the foreclosure sale date. Additionally, unless otherwise directed by Fannie Mae, a special servicing option MBS mortgage loan that has been foreclosed must be removed from the MBS pool no later than the following remittance date.

If Fannie Mae directs that the REO property remain in the MBS trust after foreclosure, it must be removed from the MBS trust no later than the close of the third calendar year following the calendar year in which the MBS trust acquired the REO property. For example, if an MBS trust acquires REO property in October 2008, the REO property must be removed from the trust no later than December 31, 2011.

Note: Fannie Mae does not have any imminent plans to exercise the option to direct that the REO property remain in the MBS trust after foreclosure.

10. No Netting of Purchase Price of REO Property Against Funds in a Custodial Account

Servicing Guide, Part X, Section 302.02: "Scheduled/Scheduled" Remittance Types

Fannie Mae is clarifying that a servicer may not use the funds it has on hand for any payments made by, on behalf of, or for the benefit of a borrower (including scheduled principal and interest (P&I) installments, prepaid P&I installments, curtailments, or payments-in-full) to liquidate REO properties from MBS pools. Fannie Mae requires that servicers report the acquisition of a property securing an MBS mortgage loan and that the servicer use its own corporate funds to liquidate the acquired property from the MBS pool, regardless of the applicable servicing option. The servicer may not utilize payments made by or on behalf of a borrower to reimburse itself for corporate funds it advances to liquidate acquired properties from MBS pools, since the servicer will be reimbursed directly by Fannie Mae.

Servicers are reminded that they must report the acquisition of a property at foreclosure sale by submitting an "REOgram" within 24 hours after the date of a foreclosure sale. The servicer must also reflect the purchase of the mortgage loan in its pool security balance report for the reporting period by the second calendar day of the following month and include Action Code 70 in the next Transaction Type 96 (Loan Activity Record). The servicer must deposit into the P&I custodial account its own corporate funds that are due for remittance to Fannie Mae before the next scheduled drafting date for the remittance cycle. Refer to the *Servicing Guide, Part IX, Section 201.03: "Scheduled/Scheduled" Remittance Types* for a description of the different MBS remittance cycles.

For scheduled/scheduled remittance type mortgages for which Fannie Mae bears the risk of loss, Fannie Mae will automatically reimburse the servicer for the unpaid principal balance of the mortgage loan and for the servicer's P&I delinquency advances after the servicer:

- remits the funds required to remove the mortgage loan from the active accounting records or a special servicing option MBS pool, and
- reports the applicable removal action code to the investor reporting system. (The action codes applicable for foreclosures, preforeclosure or third-party sales, deeds-in-lieu, or assignments – Action Code 70, 71, or 72 – should be used to remove the

mortgage loan from Fannie Mae's active accounting records or a special servicing option MBS pool.)

A servicer should receive credit for the unpaid principal balance of the mortgage loan advanced by it and its P&I delinquency advances by the second week of the month following the servicer's reporting of the removal action.

11. Reporting the Scheduled Completion Date of Forbearance or a Repayment Plan

Servicing Guide, Part VII, Section 601: Delinquency Status and Reason for Delinquency Codes; Section 602: Reporting Monthly Mortgage Status; and Section 603: Transmitting Status Information

Beginning with the September 2007 reporting month, Fannie Mae required servicers to report the effective date (i.e., the month in which loan payments first become subject to a forbearance or repayment plan) on all new delinquency status codes reported to Fannie Mae. In an effort to further improve delinquency status code reporting requirements, Fannie Mae will now require servicers to report to us the completion date of the delinquency status that is being reported to Fannie Mae (i.e., the month in which the borrower is scheduled to complete the terms of a forbearance or repayment plan). Beginning with the July 2009 reporting month, a servicer will be required to report the completion date on all new delinquency status codes reported to Fannie Mae. If possible, servicers are encouraged to begin reporting these completion dates earlier than the June 2009 reporting month. Attachment 2 includes the data elements and file layout for reporting the completion dates of delinquency status codes.

12. Disaster Relief - Clarification

Servicing Guide, Part III, Section 1101: Evaluating the Damage; Section 1102: Special Relief Measures; and Announcement 07-03R2

Announcement 07-03R2 included an option to remove mortgage loans from MBS pools at any time, regardless of their delinquency status, if the property has been damaged by a disaster, terrorist attack, or other natural or manmade catastrophe not caused by the borrower, which may cause a reduction in value of the mortgaged property of at least 5 percent. Effective with the date of this Announcement, Fannie Mae is eliminating that option.

A servicer will now be permitted to grant a borrower disaster relief during the period needed to ascertain the facts if a disaster, terrorist attack, or other catastrophe occurs that was caused by either nature or a person other than the borrower and that the servicer reasonably believes may adversely affect either the value or habitability of a mortgaged property or the borrower's ability to make further payments or payment in full on a mortgage loan. Generally, servicers should consult with Fannie Mae before granting disaster-related relief that exceeds 90 days. When a servicer is unable to contact a

borrower who may have been impacted by a disaster and the servicer has decided to grant the borrower disaster relief while the servicer attempts to establish contact to ascertain the facts, the servicer must report a delinquency status code of 42 – “Delinquent, No Action” until the servicer is able to contact the borrower and determine an appropriate course of action. Fannie Mae expects, however, that the servicer will be able to establish contact with the borrower within the first 90 days after the disaster occurs.

After determining the facts and circumstances related to a borrower and the mortgaged property, a servicer may determine that a loss mitigation alternative is appropriate even though the borrower’s loan is current, if the servicer determines that a payment default is reasonably foreseeable. For example, a servicer may determine that a period of forbearance, consisting of reduced or suspended payments, is appropriate.

13. Use of General Ledger Accounts as Clearing Accounts

Servicing Guide, Part IX, Section 101: Custodial Bank Accounts; and Section 102: Clearing Accounts

Fannie Mae requires that P&I and tax and insurance (T&I) payments received by servicers in connection with MBS mortgage loans be held in financial institutions that meet the eligibility requirements outlined in Announcement 07-03R2. Servicers are required to deposit P&I and T&I custodial funds into custodial accounts within one business day of receipt from the borrower (including any period during which funds were in a clearing account). P&I custodial funds may not be commingled with the servicer’s own funds or with P&I payments on Fannie Mae portfolio loans or those of any other investor.

If deposits cannot be made directly to the custodial accounts, the servicer may use clearing accounts. When P&I clearing accounts are used, separate accounts generally must be established for collections. Effective with the date of this Announcement, if deposits cannot be made directly to the appropriate custodial accounts or the servicer has not established a clearing account, a servicer may record the deposit of the funds in a general ledger account provided that:

- The institution is an eligible depository and meets the requirements outlined in Fannie Mae’s *Servicing Guide* (Announcement 07-03R2).
- The account is titled to indicate that it is custodial in nature and includes “for the benefit of Fannie Mae” in the account title.
- The deposits are subsequently recorded in a separate custodial account meeting Fannie Mae’s custodial requirements within one business day (including any period during which funds were in a clearing account or general ledger account) of receipt from the borrower.

The general ledger account may not be used as a substitute for a custodial account. The servicer’s records must be able to clearly identify Fannie Mae’s interest in any funds deposited in a general ledger account.

14. Exceptions to Due-on-Sale (Transfer) Provision

Servicing Guide, Part III, Section 408.02: Exempt Transactions

This section of the *Servicing Guide* currently identifies several types of transfers or related transactions which are exempt from enforcement of the due-on-sale (transfer) provision. Fannie Mae is clarifying the policy to include all related and unrelated natural persons as persons to whom an interest in the property may be transferred without triggering enforcement of the due-on-sale clause, provided the transferee acknowledges in writing that he or she is assuming all of the obligations under, and will be bound by, the note and security instrument; and, the transferee will occupy the property with the transferor as his or her principal residence. Such an exempt transaction may not include a release of liability for any transferor, except in accordance with Section 408.02.

15. Roles of Fannie Mae and Servicers

Selling Guide, Part I, Section 202: Servicer's Basic Duties and Responsibilities; and Announcement 07-03R2

Fannie Mae is further clarifying the relationship between Fannie Mae and servicers of MBS mortgage loans and confirming the following statements apply to the relationship under the 1980's Indentures, the 2007 Amended Trust Agreement, and the 2009 Trust Agreement.

- Under the MBS trust documents, mortgage loans and the proceeds of those loans are held by Fannie Mae as trustee for the benefit of the MBS Trusts and their beneficial owners, the MBS investors; the servicer is responsible for servicing MBS mortgage loans for the MBS Trusts that own the mortgage loans.
- Fannie Mae also is the master servicer for the MBS Trusts, and, in that capacity, contracts with the servicer as the direct servicer and has the responsibility for assuring that servicing is performed in accordance with the applicable MBS trust documents.
- Daily servicing operations are performed by the direct servicers pursuant to the Mortgage Selling and Servicing Contract, any applicable Pool Purchase Contract or other agreement (such as a master agreement, if any) applicable to the purchase and servicing of mortgage loans in MBS. The term "Servicing Contract" refers to any of the agreements between a servicer and Fannie Mae relating to the servicing of MBS mortgage loans.

By selling mortgage loans to Fannie Mae and by servicing loans for Fannie Mae, each seller and servicer agrees that, when the mortgage loans are in MBS pools:

- A successor to Fannie Mae as master servicer for the MBS Trusts automatically will succeed to the rights of Fannie Mae under any Servicing Contract and will have authority to enforce the terms and conditions of the applicable Servicing Contract,

- including the authority to terminate the servicer (in accordance with the terms of the Servicing Contract) and to appoint a replacement servicer.
- The trustee (on behalf of the MBS Trusts) and Fannie Mae as guarantor are third-party beneficiaries of the Servicing Contract between that servicer and Fannie Mae, with the authority to enforce such contract.

16. Existing Servicing Guide Provisions

All of the provisions of the *Servicing Guide* that relate to MBS mortgage loans, including those changes announced in Announcement 07-03R2 will continue to apply, unless expressly modified by this Announcement.

Servicers should contact their Servicing Consultant, Portfolio Manager, or the National Servicing Organization's Solution Center at 1-888-326-6438 if they have any questions about Announcement 08-31.

Michael A. Quinn
Senior Vice President
Single-Family Risk Officer

Attachment 1
Fannie Mae Quick Reference Chart
Key Provisions for Forbearance, Repayment Plans and Mandatory Purchases
Refer to Announcement 08-31 for the applicable specific requirements

Forbearance	2009 Trust Agreement & 1980's Indentures & Portfolio	2007 Amended Trust Agreement
Start of Time Limit	Date of first scheduled reduced or suspended payment	
Reporting	Forbearance code "09"	
General Duration	Generally up to 6 months	Generally up to 6 months
Needs Written Agreement	Greater than 6 months	No
Longest Permitted Duration: - If default is actual	12 months, unless Fannie Mae gives prior written approval for a longer period	6 months
- If reasonably foreseeable	Initial maximum* duration of 6 months	6 months
Repayment Plan	2009 Trust Agreement & 1980's Indentures & Portfolio	2007 Amended Trust Agreement
Start of Time Limit	Inception of repayment plan	
Reporting	Repayment code "12"	
General Duration	Generally up to 12 months	Generally up to 12 months
Needs Written Agreement	Greater than 6 months	Greater than 6 months
Longest Permitted Duration (default is always actual)	36 months, unless Fannie Mae gives prior written approval for a longer period	18 months
Combination Forbearance and Repayment Plan	2009 Trust Agreement & 1980's Indentures & Portfolio	2007 Amended Trust Agreement
Start of Time Limit	Date of first scheduled reduced or suspended payment	
Reporting	Forbearance code "09" or Repayment code "12", whichever status is currently active	
Actions allowed	Forbearance agreement not over 12 months (unless Fannie Mae has given prior written approval for a longer period) followed by repayment plan	Forbearance agreement not over 6 months followed by repayment plan not over 18 months
General Duration	Generally up to 18 months in total	Generally up to 18 months in total
Needs Written Agreement	Greater than 12 months in total or greater than 6 months for either forbearance or repayment plan	Greater than 12 months in total or greater than 6 months for repayment plan
Longest Permitted Duration: - If default is actual	36 months total forbearance and repayment plan, unless Fannie Mae gives prior written approval for a longer period	6 months for a forbearance agreement and 18 months for a repayment plan
- If reasonably foreseeable	Initial maximum* of 36 months total forbearance and repayment plan (with initial maximum* of 6 months forbearance)	6 months forbearance plus 18 months repayment plan
<i>*After initial forbearance period has begun, forbearance and repayment plans may be extended subject to the other limits for forbearance and repayment plans.</i>		

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IF FORBEARANCE HAS BEEN GRANTED WHEN A PAYMENT DEFAULT IS REASONABLY FORSEEABLE (IMMINENT DEFAULT), after the initial forbearance period has begun and there has been an actual payment default as a result of a partial or suspended payment, forbearance and repayment plans may be extended beyond the initial maximum periods (for loans under the 2009 Trust Agreement or the 1980's Indentures, but not the 2007 Amended Trust Agreement) for reasonably foreseeable defaults. Any extension beyond the initial maximum period is subject to the other general limits for forbearance and repayment plans (e.g., Fannie Mae prior written approval must be obtained if the total forbearance period would exceed 12 months).

MANDATORY PURCHASE OF A DELINQUENT LOAN OUT OF AN MBS POOL

AN MBS LOAN MUST BE PURCHASED FROM ITS MBS POOL when the loan is 24 months past due, as measured from the last paid installment, unless one of the following is occurring:

- the borrower is performing under a repayment plan;
- the servicer and borrower are pursuing a preforeclosure sale or a deed-in-lieu of foreclosure;
- the foreclosure process on the loan has begun;
- foreclosure or other legal remedy against the borrower must be delayed under applicable law (such as bankruptcy law, probate law, or the Servicemembers Civil Relief Act of 2004); or
- the mortgage loan is in the process of being assigned to the insurer or guarantor that provided any related mortgage insurance or guaranty.

AN MBS LOAN MUST BE PURCHASED FROM ITS MBS POOL PRIOR TO MODIFICATION, which may occur based on the following timetable:

Governing Trust Document	General Practice for Loan Modification	Exception
1980's Indentures, 2007 Amended Trust Agreement & Portfolio	After the loan has been in a continuous state of default for at least 4 consecutive monthly payments (or at least 8 consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency	None
2009 Trust Agreement	After the loan has been in a continuous state of default for at least 4 consecutive monthly payments (or at least 8 consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency	After the loan has been delinquent for at least one monthly payment, if the delinquency has not been fully cured on or before the next payment date (e.g., 30-days delinquent) with Fannie Mae's prior written permission in cases where extraordinary circumstances justify removal before the loan is in a continuous state of default for at least 4 consecutive monthly payments (or at least 8 consecutive payments in the case of a biweekly mortgage loan) without a full cure of the delinquency.

Attachment 1
Fannie Mae Quick Reference Chart
Key Provisions for Forbearance, Repayment Plans and Mandatory Purchases
Refer to Announcement 08-31 for the applicable specific requirements

ADDITIONAL INFORMATION

A SERVICER'S LOSS MITIGATION RESPONSIBILITY is to use a variety of loss mitigation alternatives and design a loss mitigation strategy best suited under the facts and circumstances affecting a particular mortgage loan and borrower to help bring a mortgage loan current within a specified period of time.

A REPAYMENT PLAN must require the borrower to pay all arrearages in full and to bring the mortgage loan current by the end of the repayment plan. The minimum payment due under a repayment plan must be the full amount of the monthly payment due under the mortgage loan.

ADDITIONAL FORBEARANCE PERIODS may be granted if a borrower begins but fails to sustain a repayment plan.

END DATE FOR ANY FORBEARANCE OR REPAYMENT PLAN must always be on or before the last scheduled payment of the loan.

A WRITTEN AGREEMENT may be a document executed by both parties or, if permitted and enforceable under applicable law, may be a letter to the borrower referencing the meeting or conversation(s) during which the agreement was reached and confirming its terms. Unless prohibited by law, the letter should provide that, by making a payment under or acting in accordance with the specified terms, the borrower further confirms the agreement.

Attachment 2

Delinquency Reporting Flat File Layout

Description: A file containing a “delinquency status” code and a “reason for delinquency” code on a delinquent mortgage loan reported to Fannie Mae.

Data Record

	Data Element	Position	Format	Description	Required Field	Definition
1	Servicer Number	01-09	9(9)	Numeric	Yes	The Fannie Mae assigned lender number
2	Space	10	X(1)	Space	Yes	
3	Loan Number	11-20	9(10)	Numeric	Yes	The 10-digit unique Fannie Mae assigned loan number for Fannie Mae loans.
4	Space	21	X(1)	Space	Yes	
5	Status Code	22-23	X(2)	Character	Yes	A code that represents the latest action or stage of a specific action for a mortgage in each reporting cycle.
6	Space	24	X(1)	Space	Yes	
7	Reason Code	25-27	X(3)	Character	Yes	A code that most specifically describes the circumstance that appears to be the primary contributing factor to the delinquency.
8	Space	28	X(1)	Space	Yes	
9	Default Effective Date	29-36	9(8)	Date in YYYYMMDD	Yes	The effective date is the date that the delinquency action code becomes effective.
10	Space	37	X(1)	Space	No	
11	Default Completion Date	38-45	9(8)	Date in YYYYMMDD	No	The completion date is the date that the delinquency action code was completed.
12	Space	46-80	X(35)	Space	No	