



***Announcement 08-37***

***December 19, 2008***

***Amends these Guides: Selling and Servicing***

***New Designated Document Custodian for Certification and Custody of Portfolio Mortgages***

### **Introduction**

Fannie Mae continues to explore ways to provide high quality certification and custody services to Fannie Mae lenders for both portfolio mortgage and MBS pool mortgage transactions. To that end, Fannie Mae recently conducted a review of its existing certification and custody services and has made the decision to no longer provide certification and custody services. Fannie Mae has identified The Bank of New York Mellon Trust Company, N.A. (BNYM) as the designated document custodian that will perform these services and has negotiated competitive rates for custodian fees that lenders will be required to pay for portfolio mortgages. This Announcement describes the transition of certification and custody of portfolio mortgage loans to the new designated document custodian. Fannie Mae will cease providing certification services effective May 11, 2009. In addition, the existing inventory of loan documents held by Fannie Mae will be transitioned to the designated document custodian by October 1, 2009.

### ***Selling and Servicing Guide References***

The change to BNYM as Fannie Mae's designated document custodian for portfolio mortgage loans impacts numerous sections of both the *Selling* and *Servicing Guides* (too numerous to list here). All references to Fannie Mae as document custodian will be replaced with references to the designated document custodian in future updates to the *Guides*. Notwithstanding the foregoing, the following sections are noted as they are significantly impacted by this Announcement:

***Selling and Servicing Guide, Part I, Section 403: Custody of Mortgage Documents; and Selling Guide, Part VI, Section 301: Cash Deliveries***

## **Transition to the New Designated Document Custodian**

For portfolio mortgage deliveries, Fannie Mae's *Selling* and *Servicing Guides* currently require that mortgage documents be certified and held by Fannie Mae's Document Delivery Facility (DDF™) unless the mortgage seller has obtained a negotiated contract variance that allows the documents for portfolio mortgage deliveries to be certified and/or held in custody by either a third-party custodian or by a seller, servicer, or affiliated document custodian. However, Fannie Mae will now require that all portfolio mortgage deliveries be certified and held by the new designated document custodian. This applies to the following:

- Whole mortgage loans,
- As Soon As Pooled® Plus (ASAP Plus) loans,
- ASAP Plus loans that are redelivered as MBS pools,
- Reverse mortgages, and
- E-notes (portfolio mortgages only).

Any waiver currently granted to a seller under a negotiated contract that allows the documents for portfolio mortgage deliveries to be certified and held by another document custodian will remain in effect pursuant to its terms.

For MBS pool mortgage deliveries, Fannie Mae currently requires that mortgage documents be certified and held by either DDF or a document custodian that meets the eligibility criteria set forth in the *Selling* and *Servicing Guides*. All current DDF customers for MBS transactions may elect to use the designated document custodian to hold mortgage documents for MBS pool deliveries or may select another document custodian that meets the eligibility and operational requirements as set forth in the *Guides*, as amended by Announcement 08-32, *Document Certification and Custody Eligibility Changes*.

## **Designated Document Custodian**

Fannie Mae has selected BNYM to act as Fannie Mae's designated document custodian for portfolio mortgages. Fannie Mae wanted a document custodian that provides traditional trust services but does not originate, sell, or service mortgage loans. BNYM is able to provide certification and custody services for fees that are competitive with Fannie Mae's existing fee structure for MBS loans, and they provide additional services that many Fannie Mae lenders have requested. Interested sellers and servicers are encouraged to negotiate these additional services directly with BNYM.

## **Payment of Fees for Certification and Custody Services**

Historically, Fannie Mae has not charged a fee for certification and custody of portfolio mortgages. After reviewing industry practices, Fannie Mae has determined that this practice is not in line with industry standards. As a result, Fannie Mae seller/servicers will now be charged for these services effective May 11, 2009.

BNYM will begin billing the servicer for certification and custody of the portfolio mortgages and MBS pool mortgages (if applicable) upon delivery of each lender file to BNYM. However, if the seller and servicer of the loans are different entities and the servicer has negotiated a fee arrangement with the seller, the seller or servicer should notify the document custodian of the fee arrangements to ensure proper billing. Fannie Mae will look to the servicer as the responsible party if fees have not been remitted to BNYM for services it has provided. Failure to remit payments to BNYM as required shall be a breach of the requirements of the servicer's Mortgage Selling and Servicing Contract.

### **Execution of New *Designated Custodian Master Custodial Agreement***

Currently, Fannie Mae does not require seller/servicers to execute a custodial agreement when they utilize Fannie Mae as the document custodian. However, since custody will now be with a third party, Fannie Mae will require seller/servicers of portfolio mortgages to execute a *Designated Custodian Master Custodial Agreement* (Form 2010). Form 2010 will cover certification and custody for both portfolio mortgages and MBS pool mortgages.

In order to facilitate a smooth transition, Fannie Mae will mail a transition package to each seller/servicer using DDF that consists of the following:

- a *Designated Custodian Master Custodial Agreement* (Form 2010) to be executed and returned to Fannie Mae by the seller/servicer, and
- ancillary documents required by BNYM including
  - a Document Custody Fee Schedule,
  - Customer Verification Form,
  - W-9,
  - Electronic Funds Transfer Authorization,
  - Web Access/Release Request Authorization, and
  - a Service Level Guide.

Any questions regarding these ancillary documents should be directed to BNYM via email at [GoverningDocs@bnymellon.com](mailto:GoverningDocs@bnymellon.com), or by phone at (972)785-5450.

**Note: BNYM will not certify loans for a seller/servicer until it has received an executed copy of the Form 2010 and the required ancillary documents.** Therefore, to avoid delays in funding, the seller/servicer must complete and return the executed Form 2010 and the ancillary documents within 15 days of receipt of the transition package to:

Fannie Mae  
BNYM C&C Transition  
13150 Worldgate Drive  
Herndon, VA 20170

The seller/servicer must complete and return to Fannie Mae the Form 2010 and ancillary documents contained in the transition package even if it is currently not an active seller of loans to Fannie Mae.

If the seller/servicer has any questions regarding the Form 2010 or has not received the transition package by January 12, 2009, it must contact Fannie Mae via email at [thirdparty\\_custody@fanniemae.com](mailto:thirdparty_custody@fanniemae.com) to obtain the necessary documents.

When Fannie Mae receives the executed Form 2010 and completed ancillary documents, Fannie Mae will forward the completed ancillary documents to BNYM. Once BNYM has satisfactorily completed onboarding and other procedures related to acceptance of new customers, BNYM will notify Fannie Mae. Fannie Mae will then execute the Form 2010 and return a copy of the fully executed Form 2010 to the seller/servicer and BNYM.

### **Procedures for Execution of Form 2010 after Transition**

After May 11, 2009, any new seller/servicers that will deliver portfolio mortgages to Fannie Mae and will utilize the services of BNYM should complete Form 2010 and send it directly to BNYM for their execution at the following address:

The Bank of New York Mellon Trust Company, N.A.  
New Agreement Execution  
2220 Chemsearch Blvd, Suite 150  
Irving, Texas 75062

The Form 2010 is available on [eFannieMae.com](http://eFannieMae.com).

Upon receipt of the executed Form 2010, BNYM will send the seller/servicer ancillary documentation for completion. After BNYM has received completed ancillary documentation from the seller/servicer and has completed its onboarding and other procedures related to the acceptance of new customers, the Form 2010 will be executed by BNYM and Fannie Mae. A copy of the fully executed Form 2010 will be returned to the seller/servicer for its records.

### **Selecting a Document Custodian Other Than BNYM for MBS Deliveries**

A seller/servicer that currently uses DDF for its MBS deliveries (not including ASAP Plus loans) may choose to select another document custodian for MBS documents, provided that the selected document custodian meets Fannie Mae's eligibility and operational requirements and the seller/servicer has a copy of the *Master Custodial Agreement* (Form 2003) executed by the seller/servicer, the document custodian, and Fannie Mae.

The seller/servicer will need to add the document custodian to its profile within the Loan Delivery application. If the document custodian is newly approved, the document

custodian will need to register for the Document Certification application. Training will be available if the document custodian is unfamiliar with the application. For all MBS pool mortgages, the document custodian will certify the loans through the Document Certification application.

## **Delivering Documents to BNYM**

Unless otherwise approved by Fannie Mae, seller/servicers who currently deliver mortgage document submission packages for portfolio mortgage deliveries to Fannie Mae's Herndon, VA facility will be required to send the documents to BNYM at the address listed below, effective May 11, 2009.

The Bank of New York Mellon Trust Company, N.A.  
New Loan Certification  
5730 Katella Ave  
Cypress, CA 90630

BNYM will certify the loans in accordance with the Form 2010, the *Guides*, and the *Requirements for Document Custodians*. There may be delays in funding if document submission packages are not delivered to the address above.

## **Portfolio Mortgage Deliveries to BNYM**

The seller/servicer will continue to deliver data for portfolio mortgages to Fannie Mae via Loan Delivery for regularly amortizing loans. The seller must use a "Purchase Document" code of 4 instead of 1. The Purchase Document code field is located in the 2000 character file format in position 361. A Purchase Document code of 4 allows the data to properly route to BNYM for certification. Failure to specify the proper code may result in a delay of certification and/or purchase of the portfolio mortgage.

To ensure timely delivery, the seller should ensure that the mortgage document submission package is submitted to its overnight carrier (with instructions for first morning delivery) the same day that the seller submits the loan data to Fannie Mae for purchase. Loan data delivered by the seller to Fannie Mae will be certified the next business day provided the documents have been delivered to BNYM via first morning delivery, and there are no discrepancies.

When BNYM receives the mortgage document submission package, it will review the related mortgage documentation to verify that all of the required documents have been received and are in order. As a convenience to our seller/servicers, BNYM will correct any certification data errors to assure that the data transmitted to Fannie Mae by the seller/servicer matches the data on the mortgage documents.

The seller/servicer will be notified of any document deficiencies or corrections to data via BNYM's web portal. (An application for authorization to access BNYM's web portal is contained in the transition package.) The seller/servicer should work directly with

BNYM to resolve any document issues. Provided there are no document related errors, BNYM will then transmit a certification to Fannie Mae (along with any data corrections, if applicable). The seller/servicer shall be deemed to have ratified any such correction if it does not notify Fannie Mae of its objection to such correction within 24 hours of the seller/servicer's receipt of such notice from BNYM.

## **MBS Pool Mortgage Deliveries to BNYM**

The seller will continue to deliver data for MBS loans to Fannie Mae via Loan Delivery for MBS loans. The seller will need to add BNYM to its profile within the Loan Delivery application. In addition, the seller must submit the Financial Institution Number (FIN) for BNYM in the delivery file. The FIN for BNYM is 20000398668. The FIN code field is an 11 digit numeric field located on the 2000 character file format starting in position 472. The FIN code allows the data to properly route to BNYM for certification via the Document Certification application. Failure to specify the proper FIN may result in a delay of certification and/or MBS pool securitization. However, if an MBS pool contains one or more ASAP Plus loans, all loans within the pool must be certified by BNYM. Refer to the next section "*ASAP Plus Mortgage Loan Deliveries and ASAP Plus Mortgage Loans Redelivered as ASAP Plus Pools*" for additional details.

To ensure timely delivery, the seller should ensure that the mortgage document submission package is submitted to its overnight carrier (with instructions for first morning delivery) the same day that the seller submits the loan data to Fannie Mae for purchase. Loan data delivered by the seller to Fannie Mae will be certified the next business day provided the documents have been delivered to BNYM via first morning delivery, and there are no discrepancies.

When BNYM receives the mortgage document submission package, it will review the related mortgage documentation to verify that all of the required documents have been received and are in order. Provided there are no document or data related errors, BNYM will then transmit a certification to Fannie Mae via the Document Certification application.

The seller/servicer will be notified of any document or data deficiencies via BNYM's web portal. (An application for authorization to access the document custodian's web portal is contained in the transition package.) The seller/servicer should work directly with BNYM to resolve any document issues.

For MBS pool mortgage deliveries, if a data error is identified by BNYM, the lender must submit an MBS correction through the Loan Delivery application. BNYM will review the MBS correction to ensure that the new data values match the related mortgage document. Provided there are no document related errors, BNYM will then transmit a certification to Fannie Mae via the Document Certification application.

## **ASAP Plus Mortgage Loan Deliveries and ASAP Plus Mortgage Loans Redelivered as ASAP Plus Pools**

For ASAP Plus deliveries, the seller will continue to deliver loans through Funding Express. To ensure timely delivery, the seller should ensure that the mortgage document submission package is submitted to its overnight carrier (with instructions for first morning delivery) the same day that they submit the loan data to Fannie Mae for funding. Loan data delivered by the seller to Fannie Mae will be certified the next business day provided the documents have been delivered to BNYM via first morning delivery, and there are no discrepancies.

When BNYM receives the mortgage document submission package, it will review the related mortgage documentation to verify that all of the required documents have been received and are in order. As a convenience to our seller/servicers, BNYM will correct any certification data errors to assure that the data transmitted to Fannie Mae by the seller/servicer matches the data on the mortgage documents.

The seller/servicer will be notified of any document deficiencies or corrections to data via BNYM's web portal. (An application for authorization to access BNYM's web portal is contained in the transition package.) The seller/servicer should work directly with BNYM to resolve any document issues. Provided there are no document related errors, BNYM will then transmit a certification to Fannie Mae (along with any data corrections, if applicable). The seller/servicer shall be deemed to have ratified any such correction if it does not notify Fannie Mae of its objection to such correction within 24 hours of the seller/servicer's receipt of such notice from BNYM.

If the seller opts to redeliver an ASAP Plus loan as a portfolio mortgage execution to Fannie Mae, they should redeliver the loan to Fannie Mae via Loan Delivery. When an ASAP Plus loan is redelivered as a portfolio mortgage loan, the seller must include the Purchase Document code of 4 in the 2000 character format file upon redelivery. Failure to specify the proper code may result in a delay of certification and/or purchase of the loan.

If the seller opts to redeliver an ASAP Plus loan as an MBS execution to Fannie Mae, they should redeliver the loan to Fannie Mae via Loan Delivery. If an MBS pool contains one or more ASAP Plus loans, all loans within the pool must be certified by BNYM. In addition, the seller must transmit all of the loans in the pool with a FIN of 99999398668. The seller will need to add BNYM to its profile within the Loan Delivery application.

The FIN code will allow the redelivered data to be properly reconciled against the data that was originally delivered through Funding Express. Failure to specify the proper FIN code may result in a delay of certification and/or purchase of the loan.

## **Reverse Mortgage Loan Deliveries**

For Reverse Mortgages, the seller/servicer will continue to deliver loans through eBoutique™. To ensure timely delivery, the seller/servicer should ensure that the mortgage document submission package is submitted to its overnight carrier (with instructions for first morning delivery) the same day that they submit the loan data to Fannie Mae for purchase. Loan data delivered by the seller to Fannie Mae will be certified the next business day provided the documents have been delivered to BNYM via first morning delivery, and there are no discrepancies.

When BNYM receives the mortgage document submission package, it will review the related mortgage documentation to verify that all of the required documents have been received and are in order. As a convenience to seller/servicers, BNYM will correct any certification data errors to assure that the data transmitted to Fannie Mae by the seller/servicer matches the data on the mortgage documents.

The seller/servicer will be notified of any document deficiencies or corrections to data via BNYM's web portal. (An application for authorization to access BNYM's web portal is contained in the transition package.) The seller/servicer should work directly with BNYM to resolve any document issues. Provided there are no document related errors, BNYM will then transmit a certification to Fannie Mae (along with any data corrections, if applicable). The seller/servicer shall be deemed to have ratified any such correction if it does not notify Fannie Mae of its objection to such correction within 24 hours of the seller/servicer's receipt of such notice from BNYM.

## **Transition of Custody Documents Being Held at DDF to BNYM**

Fannie Mae will move the existing custodial document inventory in its DDF facility to BNYM starting February 1, 2009 and concluding by September 30, 2009. Fannie Mae will waive its release fee, cover shipping costs, and pay a one time onboarding fee to BNYM for the transitioned loan documents on behalf of servicers. Once documents have been moved to BNYM, the servicer shall be responsible for all custodian fees related to those documents. Unless otherwise specified, loans will be held at BNYM's Cypress, California custodial facility.

If any servicers that utilize DDF for custody of MBS pool mortgages want the loan documents for the MBS pool mortgages to be sent to a Fannie Mae document custodian other than BNYM, they must notify Fannie Mae to that effect by January 31, 2009. If notification is not received by January 31, 2009, all MBS loan documents held in custody at DDF will be sent to BNYM as custodian. Notification to Fannie Mae must state the servicer's intent to transfer the documents to a new custodian, specify the approximate number of mortgages for which documents will be transferred, indicate the desired date for shipping the documents to the new custodian, and provide the names and telephone numbers of the contact persons for the servicer and the new document custodian. This notification should be sent via email to [custody\\_group@fanniemae.com](mailto:custody_group@fanniemae.com) with the subject line "Transition Bulk Out."

Upon receipt of such a notification, Fannie Mae will send the loan documents via overnight delivery to the servicer's selected custodian. Fannie Mae will attempt to accommodate servicers' desired transition dates for the bulk out requests. However, in some instances, loans may not be able to be shipped on the requested date. Fannie Mae will notify the servicer of the actual shipping date.

All MBS pool mortgages transferred to the servicer's selected custodian must be recertified by the new document custodian in accordance with the *Guides and Requirements for Document Custodians*. Any fees charged by the new document custodian are the sole responsibility of the servicer.

## **Miscellaneous Functions and Reporting**

### **Bulk-In Requests**

To ensure an efficient transition of existing mortgage loan documents held at DDF, effective February 1, 2009, Fannie Mae will no longer accommodate bulk-in requests from our servicers. All bulk-in requests should be directed to BNYM via email at [Doc.Custody.Support@bnymellon.com](mailto:Doc.Custody.Support@bnymellon.com). BNYM will make arrangements with the servicer for an orderly transfer. To avoid delays in the process, servicer should ensure that it has completed Form 2010 and any related ancillary documents.

### **Loan Release Requests**

Until September 30, 2009, when a servicer needs custody documents that are held by DDF in connection with any servicing-related procedure (e.g., a mortgage payoff, repurchase of the mortgage from Fannie Mae, referral of the mortgage to an attorney (or trustee) to begin proceedings for a foreclosure or acceptance of a deed-in-lieu, the initiation or completion of foreclosure proceedings), the servicer must electronically submit a request for the release of custody documents by accessing the Loan Document Request System (LDRS). Refer to [eFannieMae.com](http://eFannieMae.com) for LDRS. If the document has been transferred to BNYM, Fannie Mae will forward the submitted release request from LDRS to BNYM. Generally, loans requested in this manner will be shipped to the servicer within 48 hours after Fannie Mae receives the request.

On and after October 1, 2009, all document release requests should be directed to BNYM. The servicer must also submit release requests for mortgage payoff or repurchase, the acceptance of a deed-in-lieu, or the completion of foreclosure proceedings. All requests should be submitted to BNYM through BNYM's electronic release system. Access to BNYM's release system requires completion of the Web Access application form which is contained in the transition package.

Unless otherwise instructed by BNYM, should any of the documents released to the servicer need to be returned to custody because they are no longer needed, the servicer should return them under cover of a hard copy letter stating the name of the servicer, servicer loan number, Fannie Mae loan number, pool number if applicable, type of

document returned and reason for the document return (e.g., reinstatement). Custody documents must be returned to BNYM at the following address:

The Bank of New York Mellon Trust Company, N.A.  
Document Returns  
5730 Katella Ave  
Cypress, CA 90630

### **Mortgage Satisfactions and Lien Releases**

If a servicer needs Fannie Mae to execute a mortgage satisfaction or lien release as a separate document, the servicer will need to send an appropriately identified hard copy of the satisfaction document to the address shown below. Generally, Fannie Mae will ship documents requested within five business day after Fannie Mae receives the servicer's request. Send the request and document to:

Fannie Mae  
Mortgage Satisfactions  
13150 Worldgate Dr.  
Herndon, VA 20170

### **Lender Record Information (Form 582)**

Fannie Mae requires seller/servicers to submit Form 582 on an annual basis. One of the questions requires the seller/servicer to identify all document custodians that hold custodial documents on behalf of Fannie Mae. The seller/servicer should indicate that BNYM is holding loan documents by entering their information in the section entitled Other Custodian(s). A seller/servicer that is transitioned to BNYM should not select DDF. The seller/servicer should use the following address for BNYM:

The Bank of New York Mellon Trust Company, N.A.  
Document Returns  
5730 Katella Ave  
Cypress, CA 90630

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Servicers should contact their Fannie Mae Servicing Consultant, Portfolio Manager, or Fannie Mae's National Servicing Solutions Center at 1-888-326-6438 with any questions about Announcement 08-37. Document custodians may contact Fannie Mae at [thirdparty\\_custody@fanniemae.com](mailto:thirdparty_custody@fanniemae.com).

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