

Fannie Mae Releases a New 2009 Single-Family Master Trust Agreement for Mortgage-Backed Securities (MBS)

Fannie Mae released a new 2009 Single-Family Master Trust Agreement and associated base Prospectus to modify practices and refine policies for the Single-Family MBS program. Concurrently, the company released the Amended and Restated 2007 Single-Family Master Trust Agreement, clarifying certain provisions as well as a Servicing Guide Announcement instructing Single-Family servicers how to execute their operational responsibilities in accordance with the new Trust requirements.

None of the revisions will affect investor disclosures or require any action by MBS holders. Some changes, however, potentially could affect the purchase of certain loans out of pools.

A Fannie Mae Master Trust Agreement, together with its exhibits and supplements, is the principal authority that defines the rights and responsibilities of Fannie Mae and of the certificate holders in relation to an MBS Trust created under that particular master document. In general, it sets forth the terms related to the MBS issuance; the loans or participation interests in the MBS pool; and the payment terms for the MBS certificates. A companion disclosure document for a specific Master Trust Agreement, an MBS Prospectus, explicitly outlines the policies and practices Fannie Mae will follow for pooling mortgages into an MBS, issuing an MBS, purchasing delinquent loans out of MBS and other important aspects of its MBS program.

This edition of *MBSenger* calls the attention of investors to these actions and highlights certain changes. The Servicing Guide Announcement becomes effective immediately and the Trust documents become effective on January 1, 2009 and will be posted before that date on www.fanniemae.com and www.efanniemae.com.

Trust Agreements:

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

Prospectus Documents:

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

Servicing Guide Announcement 08-31:

<https://www.efanniemae.com/sf/guides/ssg/2008annlenltr.jsp>
(Fannie Mae Single-Family Servicing Guide: www.allregs.com/efnma/).

Single-Family Master Trust Agreement

Fannie Mae issued a new Single-Family Master Trust Agreement to provide servicers with additional loss mitigation alternatives as a way to help delinquent Single-Family borrowers remain in their homes, to reduce foreclosures and to provide liquidity to the market. A major revision of the new Trust documents is that Single-Family servicers will be able to offer longer loss mitigation options.

For Single-Family MBS loans, new time limits apply to both Forbearance agreements and Repayment Plans:

- ▶ The maximum period of Forbearance (when a borrower's payments are suspended or reduced) has been increased from 6 months to 12 months.
- ▶ The maximum length of a Repayment Plan (when a borrower makes additional payments over an agreed period to bring a loan current) has been increased from 18 months to 36 months, including any periods of Forbearance.
- ▶ A servicer may not extend loss mitigation arrangements beyond the new limits for any loan unless it obtains Fannie Mae's prior written approval.
- ▶ The longer durations apply to all MBS pools except those issued under the June 1, 2007 Single-Family Master Trust Agreement (governing MBS pools issued from June 1, 2007 through December 31, 2008).

Other significant changes provide a servicer with additional flexibility across all Single-Family MBS pools:

- ▶ Currently, servicers begin loss mitigation with a borrower only after a payment default has occurred. A servicer now will have the authority to begin loss mitigation activities if it determines that a payment default is reasonably foreseeable based on certain criteria.
- ▶ Currently, a servicer must begin foreclosure proceedings when a loan has been delinquent for a specified period, with certain exceptions. Under the announced clarifications, the specified time limits have been eliminated. In addition, the servicer is directed in the Servicing Guide generally to begin foreclosure for most loans within 105 days of delinquency, but permitting postponements to facilitate loss mitigation. Fannie Mae expects servicers to have appropriate policies that allow for foreclosure referrals to begin when all reasonable loss mitigation options have been exhausted. For detailed information regarding our policies and procedures relating to foreclosures, please refer to the Fannie Mae Single-Family Servicing Guide, which is available online without charge via AllRegs at www.allregs.com/efnma/.

One additional revision in the 2009 Single-Family Master Trust Agreement affects only pools issued under that document, that is, on or after January 1, 2009. For those pools, servicers may seek our prior written consent to remove a loan for loss mitigation in extraordinary circumstances after as little as one-month payment delinquency, if the servicer has determined that a loan modification or other loss mitigation measure that cannot be accomplished while the loan is in the MBS is the appropriate foreclosure prevention option (for example, if a buyer is willing to purchase the property and assume the loan if it is modified to reflect a reduced interest rate in line with the current market rate). Permission will be granted solely on an exception basis and in all other cases, servicers will be required to observe the standard guidelines, that is, a servicer may not remove a loan from its MBS pool for modification until it has been in a continuous state of default for at least four consecutive monthly payments without a full cure of the delinquency. This change allows more flexibility if needed to respond to future market conditions but does not affect any outstanding MBS securities issued through the end of 2008.

Early Workout™ Program

The company will also introduce an Early Workout program that features a simplified path to a permanent loan modification for qualified Single-Family borrowers, whether a delinquency has occurred or is reasonably foreseeable. Under the program, the borrower signs a single document at the beginning of the

workout process, which conditionally changes the monthly payment for a trial period. The loan modifications become permanent only if the borrower has made timely payments at the conditional level during a trial period and after the loan has been removed from its MBS pool. Under Fannie Mae's existing trial-payment plan, the borrower must sign documents at two separate times, when the trial period starts and again when the modification becomes effective.

Although Early Workout will become available concurrently with the Streamlined Modification Program (SMP) recently announced by the Federal Housing Finance Agency (FHFA) on November 11, 2008,¹ the two programs are separate. Both are intended to modify loans after a trial period during which the borrower successfully makes payments at the new amount. However, the SMP is a specific coordinated relief effort among Fannie Mae, Freddie Mac, FHFA and Hope Now to avoid foreclosure for a specific segment of borrowers who have missed three payments and meet certain other criteria. The Early Workout is a separate Fannie Mae initiative in an effort to assist a wider spectrum of distressed borrowers in various stages of delinquency, including those who are current on their loan payments but facing imminent default.

Conclusion

This edition of *MBSenger* highlights the publication of new and amended Single-Family Master Trust Agreements and the base Prospectus for its MBS program and summarizes certain of the changes. The descriptions are general and omit material that investors may consider pertinent. Therefore, investors are encouraged to review the complete documents for more detailed information in order to determine any factors that they may choose to consider for analytical purposes.

MBSenger is published by Fannie Mae's Fixed-Income Securities Marketing Group

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¹ <http://www.fhfa.gov/GetFile.aspx?FileID=169>