FannieMae

Servicing Guide Announcement SVC-2012-25

November 28, 2012

Mortgage Release™ (Standard Deed-in-Lieu of Foreclosure and Deed for Lease) Requirements and Updates to Standard Short Sale/HAFA II Requirements

This Announcement introduces new requirements for the Fannie Mae Mortgage Release (formerly referred to as deed-in-lieu of foreclosure) processes as part of the Servicing Alignment Initiative. These new requirements are consistent with the aligned policies described in the Federal Housing Finance Agency's Directive to Fannie Mae and Freddie Mac to help simplify and streamline the Mortgage Release processes. In addition, Fannie Mae is replacing all references in the *Servicing Guide* to the term "deed-in-lieu of foreclosure" with "Mortgage Release."

Fannie Mae will now offer three exit options for borrowers completing a Mortgage Release, the three exit options are:

- immediate move (standard Mortgage Release),
- three-month transition with no rent payment required, and
- twelve-month lease with market rent payment.

The guidelines addressed in this Announcement are subject to all applicable debt collection laws, including the Fair Debt Collection Practices Act, the provisions of the United States Bankruptcy Code, and any applicable state laws. All communications with borrowers must comply with the requirements of applicable laws.

Servicers must follow the policies and procedures outlined in this Announcement for delinquency management and default prevention for all conventional mortgage loans:

- held in Fannie Mae's portfolio,
- sold to Fannie Mae for cash and subsequently securitized into MBS pools (known as Pooled from Portfolio or PFP mortgage loans), and
- that are part of an MBS pool serviced under the special servicing option or a shared-risk MBS pool for which Fannie Mae markets the acquired property.

While Fannie Mae does not require that its foreclosure prevention alternatives be used for regular servicing option MBS mortgage loans, shared-risk MBS pool for which the servicer markets the acquired property, or any other mortgage loans sold to Fannie Mae under a recourse or other credit enhancement arrangement, Fannie Mae encourages servicers to use them for these mortgage loans. However, when the servicer decides to use Fannie Mae's foreclosure prevention alternatives for such mortgage loans, Fannie Mae is not responsible for any losses or expenses the servicer incurs when applying the requirements in this Announcement to these mortgage loans. In addition, Fannie Mae will not pay servicer incentive fees in connection with foreclosure prevention alternatives on such mortgage loans.

This Announcement covers the following topics:

- Effective Date
- Borrower Eligibility
- Streamlined Documentation Requirements
- New Mortgage Loans Obtained During Hardship

- Evaluation for Borrower Contribution
- Determining the Market Value of the Property
- Mortgage Insurer Approval
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- Updates to Standard Short Sale/HAFA II Requirements

Effective Date

Servicers are required to implement the policies in this Announcement for all mortgage loans evaluated for a Mortgage Release on or after March 1, 2013, although servicers are encouraged to implement these new policies and procedures earlier, if possible.

If the servicer implements the revised requirements earlier than the Effective Date, all mortgage loans that are evaluated on or after the servicer's implementation of the Mortgage Release will be subject to the new requirements.

The new policies in this Announcement supersede *Servicing Guide* Announcement SVC-2012-19: Standard Short Sale/HAFA II and Deed-in-lieu of Foreclosure Requirements, and will be added as new sections in *Servicing Guide,* Part VII, Section 606: Deeds-in-Lieu of Foreclosure. All other requirements provided in the *Servicing Guide* remain unchanged.

Borrower Eligibility

Every borrower being considered for a Mortgage Release must submit a complete Borrower Response Package unless the borrower qualifies for Streamlined Documentation (see Streamlined Documentation Requirements section below). The servicer may consider accepting a Mortgage Release from a borrower who is experiencing a financial hardship if other special relief measures or foreclosure prevention alternatives are not feasible. To determine a borrower's eligibility, the servicer must use the borrower's delinquency status at the time of the evaluation.

Servicers are reminded that they must follow the workout hierarchy as described in the *Servicing Guide* (Part VII, Section 401: Fannie Mae's Workout Hierarchy) for all conventional mortgage loans and first evaluate the borrower for the appropriate home retention option.. If a home retention solution option is determined not to be possible, the servicer should evaluate for all liquidation options in the order in which they appear in the workout hierarchy. The servicer should first encourage the borrower to consider a Fannie Mae standard short sale/HAFA II (short sale). If a short sale is not a viable foreclosure prevention alternative, the servicer should evaluate the borrower for a Mortgage Release.

Fannie Mae is also offering three exit options for a Mortgage Release. The servicer must inform the borrower of these options as part of the Mortgage Release evaluation. The three exit options are:

- immediate move (standard Mortgage Release),
- three-month transition with no rent payment required, and
- twelve--month lease with market rent payment.

Eligible Hardships

A borrower who is 90 days or more delinquent must be experiencing and document one of the eligible hardships listed on the *Uniform Borrower Assistance Form* (Form 710) or the *Hardship Documentation Requirements for Foreclosure Prevention Alternatives* exhibit, both of which are available on Fannie Mae's website.

A borrower must provide a written explanation of the hardship on the Form 710 when the borrower's hardship falls under the "other" category (i.e., hardship reasons not already listed on the Form), describing the details of the hardship and providing all relevant documentation to the servicer. The servicer must develop written procedures to review the evidence of hardship and determine when it is appropriate to offer a Mortgage Release.

For mortgage loans less than 90 days delinquent, servicers may approve a Mortgage Release for borrowers who meet the conditions of this Announcement and document one of the following hardships:

- death of a borrower or co-borrower, or
- long-term or permanent illness or disability of a borrower or co-borrower or dependent family member.

In addition, a servicer may approve a Mortgage Release for a borrower who is less than 90 days delinquent and was previously discharged from the debt obligation through a Chapter 7 bankruptcy and did not reaffirm the mortgage loan.

If a borrower is less than 90 days delinquent and faces a hardship not listed above and provides all relevant documentation to the servicer for consideration for a Mortgage Release, the servicer must review the Borrower Response Package. If the servicer determines that the Mortgage Release request is warranted, it must submit that recommendation to Fannie Mae for written approval.

Property Occupancy

For mortgage loans that are 31 or more days delinquent, the subject property may be a principal residence, a second home, or an investment property to be considered for a Mortgage Release. The subject property may be either occupied or vacant.

For mortgage loans that are current or less than 31 days delinquent, the subject property must be the borrower's principal residence. If the subject property was the borrower's principal residence but is vacant at the time of the evaluation, the servicer must submit the Mortgage Release to Fannie Mae for written approval.

Total Month Debt-to-Income Ratio

For mortgage loans that are current or less than 31 days delinquent, the borrower's total current monthly debt-to-income ratio (which is the ratio of the borrower's current monthly expenses as defined below divided by the borrower's current monthly gross income) must be greater than 55% to be considered for a Mortgage Release.

Calculating Current Monthly Expenses

In order for the servicer to calculate the total monthly debt-to-income ratio, the servicer must verify the borrower's current monthly gross expenses. The servicer must calculate the borrower's monthly gross expenses as described in the Calculating Borrower Expenses Section below with the following substitutions that reflect the borrower's current expenses (replacing future expenses):

- The current monthly mortgage payment, including any mortgage insurance premiums, taxes, property insurance, homeowners' (HOA) or condo association fee payments, and assessments related to the property whether or not they are included in the current mortgage payment. If taxes and insurance are not known, the servicer must estimate the borrower's monthly taxes and property insurance payments.
- The monthly payment on an existing home equity line of credit (HELOC) must be included in the payment ratio using the minimum monthly payment reported on the credit report. If the HELOC has a balance but no monthly payment is reported, the servicer must obtain documentation verifying the payment amount or use a minimum of 1% of the balance.

In addition, the servicer must review the credit report for each borrower, or a joint report for a married couple who are co-borrowers, for new credit lines or liens obtained during the term of the hardship. If there are new credit lines or liens, other than for an allowed new mortgage loan (as described below), which caused the borrower's total monthly debt ratio to go above 55%, the servicer must use sound business judgment to determine if those expenses are reasonable and should be included in the borrower's gross monthly expenses; otherwise, they should be excluded.

Active Duty Military Service Members with Permanent Change of Station (PCS) Orders

If, based on sound business judgment, the servicer believes that a Mortgage Release is the appropriate foreclosure prevention alternative for a borrower who is an active duty military service member of the U.S. armed forces with PCS orders relocating from a principal residence and is current or less than 90 days delinquent the servicer must submit the recommendation to Fannie Mae for written approval.

Active duty military service members of the U.S. armed forces with PCS orders who are 90 days or more delinquent may be evaluated by the servicer for consideration of a Mortgage Release.

Streamlined Documentation Requirements

As a reminder, servicers may approve a borrower for a Mortgage Release without verifying the borrower's hardship or obtaining a complete Borrower Response Package if:

- the borrower is 90 days or more delinquent as of the date of the servicer evaluation, and
- the borrower's credit score is less than 620.

The servicer must use a borrower's classic FICO® credit score which cannot be more than 90 days old as of the date of the servicer evaluation. The classic FICO is produced from software developed by Fair Isaac Corporation and is available from the three major credit repositories. Fannie Mae approves use of the following versions of the classic FICO score:

- Equifax Beacon® 5.0,
- Experian®/Fair Isaac Risk Model V2℠, and
- TransUnion FICO® Risk Score, Classic 04.

If the servicer obtains multiple credit scores for a single borrower, the servicer must select a representative credit score using the lower of two or the middle of three credit scores. If there are multiple borrowers, the servicer must determine the representative score for each borrower and enter the lowest representative score as the credit score for the mortgage loan.

New Mortgage Loans Obtained During Hardship

The servicer must review a borrower's credit report for new mortgage loans obtained during the term of the borrower's financial hardship. If, during the term of the hardship, the borrower purchased another principal residence, the servicer can approve the Mortgage Release if the mortgage loan is 90 days or more delinquent and the hardship was due to

- distant employment transfer,
- new employment, or
- receipt of PCS orders.

In all cases the new employment location must be more than 50 miles one-way from the subject property.

The servicer must verify that the property address securing the new mortgage loan is located reasonably near the borrower's new employment location.

If the borrower has a hardship other than those listed above and has purchased another residence during the term of the hardship, the servicer must submit the Mortgage Release request to Fannie Mae for written approval.

Ineligible Mortgage Loans

A mortgage loan is not eligible for a Mortgage Release if the borrower is involved in or party to litigation other than foreclosure involving the subject property or mortgage loan.

Property Condition Requirements

The servicer must review the condition of the subject property in order to determine eligibility for a Mortgage Release. If the property inspection or property valuation reveals that the property has been poorly maintained, requires major repairs, or has structural or foundation problems and the servicer believes, based on good business judgment, that a Mortgage Release is the appropriate foreclosure prevention alternative, the servicer must submit the Mortgage Release request to Fannie Mae for written approval.

Environmental Hazards or Legal Concerns

If the property inspection or property valuation indicates that the subject property contains any environmental contamination or potential legal concerns, the servicer may not approve the Mortgage Release. If the servicer believes based on good business judgment that the Mortgage Release is the appropriate foreclosure prevention alternative, the servicer must submit the Mortgage Release request to Fannie Mae for written approval.

Examples of environmental contamination include, but are not limited to:

- high sulfur building content (for example, problem drywall),
- mold (for example, discoloration),
- exposed asbestos (Friable Asbestos),
- exposed lead-based paint,
- subject property is located on a Superfund site,
- subject property exhibits other conditions that could negatively impact the health of the occupants.

Examples of legal concerns include, but are not limited to evidence of illegal activity having taken place at the subject property (for example, growing or manufacturing illegal substances).

Evaluation for Borrower Contribution

Fannie Mae is clarifying the requirements for a borrower's cash contribution and/or promissory note requests.

The servicer must not request cash contributions and/or promissory notes where applicable law prohibits a borrower contribution or if the borrower qualifies for Streamlined Documentation. The servicer must use the borrower's delinquency status at the time of the evaluation to determine contribution requirements.

- For borrowers who are 90 days or more delinquent and are active duty military service members of the U.S. armed forced with PCS orders relocating the service member from the subject principal residence purchased by the borrower on or before June 30 2012, servicers must not request either a cash contribution or a promissory note to facilitate a Mortgage Release.
- If a borrower is evaluated for a Mortgage Release and is current or less than 31 days delinquent, the servicer must request a cash contribution from the borrower only if triggered by the borrower cash contribution test described below.
- If a borrower is 31 or more days delinquent, the servicer must evaluate the borrower for the capacity to contribute only if triggered by the borrower cash contribution test or future debt-to-income ratio tests described below.

If the servicer concludes that a borrower who is 31 or more days delinquent has the capacity for a cash and/or promissory note contribution, the servicer must use the guidance described below for setting an initial request. Servicers may use their good business judgment in determining which option to use and whether to combine options. The servicer should seek to arrive at a mutually agreeable contribution amount in order to facilitate the Mortgage Release. Servicers may be flexible in agreeing to a contribution amount that is less than the initial contribution request, but must provide an explanation in the mortgage loan servicing file of the specific circumstance that limited the borrower's ability to make the requested contribution. The borrower's total cash and promissory note contribution must not exceed the total amount of the deficiency.

Borrower Cash Contribution Test and Formula

The servicer must evaluate a borrower for a cash contribution if the borrower's cash reserves, including assets such as cash, savings, money market funds, marketable stocks or bonds (excluding retirement accounts), as stated on Form 710 are in excess of the greater of:

- $10,000; or
- six times the contractual monthly mortgage loan payment including principal, interest, and tax and insurance escrows (PITI). (If the servicer does not escrow for taxes and/or insurance, it must estimate the borrower's monthly tax and insurance premium amounts.)

If a borrower has cash reserves of more than $50,000, the servicer must request a decision from Fannie Mae for the contribution amount.

If the servicer determines that the borrower has the capacity to make a cash contribution, the servicer must initially request a contribution of 20% of the borrower's cash reserves, not to exceed the total amount of the deficiency.

If a borrower who is 31 or more days delinquent is either unwilling or unable to contribute 20% of their cash reserves, the servicer may negotiate a lower cash contribution, but must provide an explanation in the mortgage loan servicing file of the specific circumstance that limited the borrower's ability to make a full contribution.

If a borrower who is current or less than 31 days delinquent is offered a Mortgage Release and triggers the cash contribution test but is either unwilling or unable to contribute 20% of their cash reserves, the servicer must request approval from Fannie Mae to accept less than the 20% borrower cash contribution. However, if the borrower's hardship is the death of the primary wage earner, the servicer may negotiate a borrower's cash contribution of less than 20% of the cash reserves without Fannie Mae's written approval. However, the servicer must provide an explanation in the mortgage loan servicing file of the specific circumstance that limited the borrower's ability to make the full contribution.

Promissory Note Test and Formula

The servicer must evaluate a borrower for a promissory note if the borrower's future debt-to-income ratio is less than 55%. The servicer must calculate the borrower's debt-to-income ratio based on the borrower's future housing expense.

> **NOTE:** *The borrower's future housing expense, if not known, should be estimated at 75% of the borrower's current monthly mortgage loan payment including any mortgage insurance premiums, taxes, property insurance, HOA or condo association fee payments, and assessments related to the property (whether or not they are included in the current mortgage payment). If the servicer does not escrow for taxes and insurance, the servicer must estimate the borrower's monthly tax and insurance escrow payment.*

If an evaluation has been triggered and the servicer determines that the borrower has the capacity to make a promissory note contribution, the servicer must initially request a five- or ten-year term promissory note with a monthly payment of no more than one-half of the difference between the borrower's future total monthly debt-to-income ratio and 55%. The resulting promissory note payment should be affordable and result in a future total monthly debt ratio less than 55%. The monthly promissory note payment must be rounded to the nearest dollar.

Initial Monthly Promissory Note Payment =

(55% - future total monthly debt ratio)/2 X Gross Monthly Income

The promissory note balance is the final negotiated monthly promissory note payment multiplied by the negotiated term (60 months or 120 months), not to exceed the deficiency amount.

The promissory note must have a note rate of 0%.

A promissory note is not required if the promissory note balance would be less than $5,000.

Promissory Note Balance = Monthly Promissory Note Payment X Promissory Note Term Promissory Note	
Example	
Initial Monthly Promissory Note Payment	(55% - 49%)/2 X $4,000 = $120
Promissory Note Balance	$120 X 60 months = $7,200

If a borrower is either unwilling or unable to agree to a monthly promissory note payment based on the calculation above, the servicer may negotiate a lower amount, but must provide an explanation in the mortgage loan servicing file of the specific circumstance that limited the borrower's ability to make the full contribution.

A Promissory Note model template (Form 190) is available on Fannie Mae's website. Use of the Promissory Note model template is optional; however, it reflects the minimum level of information that the servicer must include. A servicer that elects to use the Promissory Note form must revise it as necessary to comply with applicable law.

Calculating Future Borrower Expenses

In order for a servicer to calculate the total monthly debt-to-income ratio for purposes of evaluating the borrower for a promissory note contribution, the servicer must determine the borrower's monthly debt and other fixed expenses, including an actual or estimated future housing payment based upon the guidance provided in the promissory note test. The servicer must obtain a credit report for each borrower or a joint report for a married couple who are co-borrowers to validate debt and other liens. In addition, the servicer must consider information concerning monthly obligations obtained from the borrower in writing. Future expenses equal the sum of the following monthly charges:

- The actual future housing payment if known, or 75% of the current monthly mortgage loan payment, including any mortgage insurance premiums, taxes, property insurance, HOA or condo association fee payments, and assessments related to the property (whether or not they are included in the current mortgage payment). If taxes and insurance premiums are not known, the servicer must estimate the borrower's monthly taxes and property insurance payments.
- Monthly payments on all closed-end subordinate mortgages if applicable. However, the servicer must exclude the subordinate lien payments for the subject property.
- Payments on all installment debts with more than 10 months of payments remaining, including debts that are in a period of either deferment or forbearance. When payments on an installment debt are not on the credit report or are listed as deferred, the servicer must obtain documentation to support the payment amount included in the monthly debt payment. If no monthly payment is reported on a student loan that is deferred or is in forbearance, the servicer must obtain documentation verifying the proposed monthly payment amount, or use a minimum of 1.5% of the balance.
- Monthly payment on revolving or open-end accounts, regardless of the balance. In the absence of a stated payment, the payment will be calculated by multiplying the outstanding balance by 3%.
- Monthly payment on a HELOC that is not secured by the subject property for the borrower's principal residence, second home, or investment property, if applicable, must be included in the payment ratio using the minimum monthly payment reported on the credit report. If the HELOC has a balance but no monthly payment is reported, the servicer must obtain documentation verifying the payment amount, or use a minimum of 1% of the balance. However, the servicer must exclude the monthly HELOC payment if the HELOC is a lien against the subject property.
- Alimony, child support, and separate maintenance payments with more than 10 months of payments remaining.
- Car lease payments, regardless of the number of payments remaining.
- Aggregate negative net rental income from all investment properties owned other than the subject mortgaged property.
- Monthly mortgage payment for a second home (PITI and, when applicable, mortgage insurance, leasehold payments, HOA dues, condo unit or co-op unit maintenance fees excluding unit utility charges). However, the servicer must exclude the monthly mortgage payment if the second home is the subject property.

In addition, the servicer must review the credit report for each borrower, or a joint report for a married couple who are co-borrowers, for new credit lines or liens obtained during the term of the hardship. If there are new credit lines or liens, other than for an allowed new mortgage loan previously identified under the New Mortgage Loans obtained During Hardship section, which caused the borrower's total monthly debt ratio to go above 55%, the servicer must use their good business judgment to determine if those expenses are reasonable and should be included in the calculation.

Calculating Monthly Gross Income

To calculate the total monthly debt ratio, the servicer must determine the borrower's "monthly gross income" based on income documentation provided by the borrower before any payroll deductions including:

- wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, or other compensation for personal services;

- Social Security payments (including Social Security received by adults on behalf of minors or by minors intended for their own support);
- monthly income from annuities, insurance policies, retirement funds, or pensions;
- disability or death benefits;
- positive net rental income; and
- other income such as adoption assistance.

NOTE: *If the subject property is an investment property, the servicer must exclude all investment property related income from the subject property from the borrower's total monthly income.*

The servicer may not consider unemployment insurance benefits or any other temporary sources of income related to unemployment, such as severance payments, as part of the monthly gross income for mortgage loans being evaluated for a Mortgage Release.

To determine monthly gross income when non-taxable income is used and the tax-exempt status of the income is likely to continue, the servicer must calculate an "adjusted gross income" for the borrower by adding an amount equivalent to 25% of the nontaxable income to the borrower's income.

If the servicer can determine that the actual amount of federal and state taxes is more than 25% of the borrower's non-taxable income, the servicer may use that amount to develop the adjusted gross income.

Determining the Market Value of the Property

If the servicer has evaluated or considered the borrower for all foreclosure prevention alternatives in accordance with Fannie Mae's workout hierarchy and has reason to believe that the borrower meets the general eligibility guidelines for a Mortgage Release, the servicer must obtain a property valuation. The property valuation for a Mortgage Release can be either:

- an interior and exterior inspection of the property which can be either a Broker Price Opinion (BPO) or an appraisal, or
- a valuation obtained through Fannie Mae's Automated Property Service™ (APS).

Fannie Mae requires that, if an appraisal is used for the property valuation for a Mortgage Release, it must be an interior and exterior inspection of the property performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP).

Fannie Mae has established a network of vendors that all servicers must use for obtaining property valuations. The list of vendors can be found in the *Preforeclosure Valuation Provider Information* document on Fannie Mae's website. The effective date on which each vendor is authorized to receive referrals for mortgage loans owned or securitized by Fannie Mae is noted on this document.

The property valuation must be dated or have been refreshed by Fannie Mae within 90 calendar days of the servicer approving the borrower for a Mortgage Release.

Property Inspection Prior to Mortgage Release

Servicing Guide, Part III, Section 304: Preforeclosure Inspections

Fannie Mae is revising the timing requirements for the comprehensive property inspection prior to the anticipated date that the deed will be sent for recordation. When the borrower elects to complete an immediate move Mortgage Release, the servicer must schedule and perform the property inspection no more than 48 hours prior to the scheduled execution of the Mortgage Release by the borrower. The final acceptance of the Mortgage Release by the servicer must only be completed after the comprehensive property inspection report shows that the subject property is vacant and in broom swept condition unless the borrower has been approved for and accepted a twelve-month lease or three-month transition.

If the comprehensive property inspection reveals any environmental hazards or legal concerns as described in the Property Condition Requirements section, or the servicer has any other concerns about the condition of the property, the servicer must send the Mortgage Release request to Fannie Mae for written approval.

In addition, the servicer must take all actions, as described in the *Servicing Guide* (Part VIII, Section 108: Property Maintenance and Management), to ensure that the condition and appearance of the property are maintained satisfactorily until Fannie Mae assigns that responsibility elsewhere when:

- a borrower selects an immediate move and the REOgram® is submitted to Fannie Mae, or
- a borrower selects the three-month transition or twelve-month lease.

Title Requirements

Fannie Mae currently requires that the servicer obtain a title insurance policy for all Mortgage Releases. With this Announcement, Fannie Mae will no longer require a title insurance policy for a Mortgage Release.

The servicer must ensure that the borrower can convey clear and marketable title and the servicer must order a title search. The servicer must review readily available information provided by the borrower, the borrower's credit report, the mortgage loan file, and other sources identifying subordinate liens and other claims on title to determine if the borrower will be able to deliver clear and marketable title.

The servicer must submit the deed for recordation within five business days of the servicer's acceptance of the executed deed from the borrower.

Mortgage Insurer Approval

As a reminder, Fannie Mae has obtained delegations of authority with mortgage insurance companies so that servicers can more efficiently process Mortgage Release requests without the need to obtain mortgage insurer approval on individual mortgage loans. A list of these mortgage insurers is posted on Fannie Mae's website.

For mortgage insurers not on this list, servicers must continue to obtain their approval on a case-by-case basis. The servicer must not agree to a Mortgage Release unless that mortgage insurer agrees in writing to:

- waive its property acquisition rights before the claim is filed, and
- settle the claim by paying the lesser of the full percentage option under the terms of the master policy or the amount required to make Fannie Mae whole (the sum of the outstanding principal balance, interest accrued at the note rate from the last paid installment date, and miscellaneous expenses, less any cash contribution from the borrower or the property purchaser).

Servicers must comply with all obligations related to the submission of mortgage insurance claims.

Allowable Subordinate Lien Payments

As a reminder, Fannie Mae now requires any payments to subordinate lienholders to be made in exchange for a lien release and full release of liability for the borrower. Allowable payments from Fannie Mae to all subordinate lienholders to facilitate lien releases must not exceed $6,000 in aggregate.

The servicer may offer the maximum payment of $6,000 for subordinate lien amounts of $6,000 or greater in order to facilitate the transaction. If there are multiple subordinate lienholders, the servicer has discretion to divide the subordinate lien payment among subordinate lienholders so as to maximize the chances that all subordinate lienholders will release their liens. If an individual subordinate lien, or total subordinate liens are less than $6,000, the payoff can only be up to the subordinate lien amount owed. No exceptions will be made to the $6,000 aggregate cap.

Prior to releasing any funds to a subordinate mortgage or lienholder, the servicer must obtain written commitment from the subordinate lienholder that it will release the borrower from all claims and liability relating to the subordinate lien in exchange for receiving the agreed-upon payoff amount.

If the servicer provides payment up to the $6,000 maximum to a subordinate lienholder, the subordinate lienholder may not accept additional contributions from the borrower or any other party as a condition for releasing its lien and releasing the borrower from personal liability.

Payment of any amount to subordinate lienholders is contingent upon agreement by all lienholders to release their liens and, if they are accepting a payment from Fannie Mae, extinguish the indebtedness secured by the subject property. In addition, subordinate lienholders accepting payment from Fannie Mae must agree in writing to waive all rights to seek a deficiency judgment against the borrower. A subordinate lienholder may choose to release its lien to allow the short sale to close, but not extinguish the indebtedness, in which case it cannot receive a payment from Fannie Mae. Regardless of whether payment is made to a subordinate lienholder, the servicer must obtain written commitment from the subordinate lienholder(s) to release the lien(s).

Deficiency Waivers

For insured mortgage loans with delegations of authority from the mortgage insurer or uninsured mortgage loans, Fannie Mae now requires the servicer to release the borrower from liability for any deficiency associated with the Fannie Mae mortgage loan upon successful completion of a Mortgage Release. In the letter to the borrower approving the Mortgage Release, the servicer must inform the borrower that any deficiency will be waived upon successful completion of the Mortgage Release. The servicer must provide a deficiency waiver to the borrower after the servicer's acceptance of the executed deed from the borrower. The servicer must maintain a copy of the deficiency waiver in the mortgage loan servicing file. If the borrower does not act in good faith and in compliance with applicable law in completing the Mortgage Release according to the approved terms, Fannie Mae reserves the right to pursue the borrower for the full amount owed on the mortgage loan and any other loss Fannie Mae may have suffered, including costs and expenses, including, but not limited to, attorneys fees.

A sample *Deficiency Waiver Agreement* (Form 189) is available on Fannie Mae's website. Use of the sample Deficiency Waiver Agreement is optional; however, it reflects the minimum level of information that the servicer must include in the required deficiency waiver. A servicer that elects to use the sample Deficiency Waiver Agreement must revise it as necessary to comply with applicable law.

As a reminder, the servicer must advise the borrower that there may be tax consequences if any portion of the outstanding debt is forgiven and refer the borrower to IRS Publication 544, *Sales and Other Dispositions of Assets* (particularly the section captioned "Foreclosure, Repossession, or Abandonment").

Servicer Duties and Responsibilities

The Mortgage Release requires that the servicer work with the borrower to complete all requirements associated with completing and executing the Mortgage Release process. At a minimum, the servicer's duties and responsibilities are as follows:

- work with the title company to resolve any issues that may delay the closing including assisting the borrower in subordinate lien releases;
- ensure that the borrower can convey clear and marketable title;
- ensure the property is vacant (unless eligible for Mortgage Release transition options program); and
- ensure that the borrower agrees to assign and transfer to Fannie Mae any rents if the property is rented, and the servicer agrees to collect any rental income.

In addition, the servicer must release the first lien mortgage loan within the time required by applicable state or local law. If the state or local law does not require release of the first lien mortgage loan within a specific timeframe the servicer must submit the first lien mortgage loan for release within 30 business days after:

- the acceptance of the Mortgage Release by the servicer, and
- confirmation by the comprehensive property inspection that the subject property is vacant and secured, for a standard Mortgage Release.

Servicers must also comply with any other specific written directions that Fannie Mae may provide.

Borrower Relocation Incentives

For an occupied principal residence at the time of the Evaluation Notice, the borrower is entitled to an incentive payment of $3,000 from Fannie Mae to assist with relocation expenses following successful completion of a Mortgage Release unless:

- the borrower is required to contribute funds or execute a promissory note,
- the borrower has PCS orders and receives a Dislocation Allowance (DLA) or other government relocation assistance, or
- the servicer has knowledge that the borrower is receiving relocation assistance from another source other than the servicer.

The servicer may elect to provide relocation assistance from its own funds to facilitate a Mortgage Release even if the borrower does not qualify for relocation assistance paid by Fannie Mae.

In instances where government relocation assistance is not provided to a borrower with PCS orders, the servicer must obtain Fannie Mae's prior written approval to provide relocation assistance.

If the servicer has knowledge that a borrower is receiving transition or relocation assistance from another source (for example, an employer, State Housing Finance Agency, etc.), that amount must be subtracted from Fannie Mae's relocation incentive will be reduced dollar for dollar up to Fannie Mae's relocation incentive cap of $3,000.

The total relocation assistance the borrower receives may exceed $3,000 if:

- the servicer elects to provide additional assistance from its own funds, or
- the borrower receives assistance from another source (for example, an employer, State Housing Finance Agency, etc.) in excess of $3,000.

Determining Borrower Relocation Incentive Example			
	Example 1	Example 2	Example 3
Maximum Fannie Mae Relocation Incentive	$3,000	$3,000	$3,000
Minus Third Party Relocation Payment	- $1,000	-$3,500	0
Actual Fannie Mae Relocation Incentive	$2,000	0	$3,000
Servicer Relocation Payment	0	0	$1,000
Total Payment to Borrower	$3,000	$3,500	$4,000

If the comprehensive property inspection indicates that the subject property is vacant but there is damage to the subject property caused by the borrower or that the subject property was not left in broom swept condition then the servicer must reduce Fannie Mae's relocation incentive for the estimated or, if known, actual cost of remediating the issues. Examples include but are not limited to:

- removing trash or debris,
- repairing the subject property, or
- replacing fixtures for the subject property.

The servicer may not require the borrower, nor may the borrower offer to apply the borrower incentive payment to obtain the release of other liens or non–real estate title impediments.

The servicer must only distribute the borrower relocation incentive to the borrower after servicer's acceptance of the executed deed from the borrower. The funds must be distributed to the borrower within 30 days after the servicer accepts the deed.

Personal Property Release

The servicer must require the borrower to execute a personal property release for any possessions or materials left at or in the subject property after the date the borrower agrees to vacate the property. A sample release is available on Fannie Mae's website. Use of this sample release is optional; however, it reflects a minimum level of information that the servicer must include in the release. A servicer that elects to use the sample release must revise it as necessary to comply with law. The release must be signed by the borrower at the same time that the borrower executes the deed.

Evaluation Notices

***Servicing Guide,* Part VII, Section 205.08: Evaluation Notices**

Fannie Mae is updating the model clause for the Mortgage Release. Fannie Mae has updated the model clause to include information on borrower's participation and requirements on:

- negotiating with subordinate lienholders,
- providing clear and marketable title,
- borrower contribution,
- property inspection and required property condition,
- execution of the deed,
- Fannie Mae's relocation incentive, and
- waiver of right to possessions left in the subject property.

Evaluation model clauses are available on Fannie Mae's website. Use of the model clauses is optional; however, the model clauses reflect a minimum level of information that the servicer must communicate and illustrate a level of specificity that complies with the requirements of the *Servicing Guide*. A servicer that elects to use the model clauses must revise the letter as necessary to comply with applicable law.

As a reminder, the servicer must allow the borrower 14 days from the date the Evaluation Notice is sent for borrower acceptance to pursue a Mortgage Release, however the servicer must continue the foreclosure process during the borrower response period. When considering a borrower for a Mortgage Release, the servicer must ensure that there is sufficient time to complete the processing of the Mortgage Release (including sending the Mortgage Release offer to the borrower) so that an executed deed can be received no later than 30 days prior to the foreclosure sale date.

Acceptance of Mortgage Release Prior to Foreclosure Sale

Within 60 days of the borrower's acceptance of the offer for a Mortgage Release, the servicer must obtain all of the following:

- the deed executed by the borrower;
- mortgage insurer approval, if Fannie Mae has not obtained a delegation of authority;
- subordinate lienholder agreement to release the borrower from liability and recordation of the release of lien;
- clear and marketable title;
- the property inspection indicating no environmental hazards or legal concerns;
- cash contribution and/or executed promissory note (if applicable);
- signed personal property release; and
- validation of vacancy if borrower has selected the immediate move option.

If the servicer is unable to resolve all issues within 60 days, an additional 30 days will be permitted, if the servicer provides the borrower with weekly status updates indicating the reason(s) the Mortgage Release is still pending. The status updates may be communicated either verbally or in writing and must be documented in the mortgage loan servicing file.

Within 90 days of the servicer approving the offer for a Mortgage Release, the executed deed must be received and accepted by the servicer.

If the servicer receives the executed deed less than 30 days prior to the foreclosure sale date, the servicer must request Fannie Mae's approval to accept the deed. The servicer will be responsible for any costs incurred due to the acceptance of a Mortgage Release resulting in a delay in acquisition of the property.

Postponement of Foreclosure Proceedings

***Servicing Guide,* Part VIII, Section 107.03: Preforeclosure Sale Review; Section 107.03.01: Certification Prior to Foreclosure Sale; and, Section 107.03.02: Cancellation of Foreclosure Sale**

When the servicer offers the borrower a Mortgage Release, the servicer must not suspend the foreclosure process until the borrower has executed the deed and the servicer has accepted the deed.. If the servicer does not receive an executed deed with clear and marketable title as well as all required documents signed by the borrower at least 30 days prior to the foreclosure sale, the servicer must continue the foreclosure process.

If the servicer receives an executed deed more than 30 days prior to foreclosure sale but the borrowers did not provide all the required signed documents, the servicer must request the additional required documents. The foreclosure process should not be postponed unless all required executed documents are received and accepted prior to the foreclosure sale date. The servicer should escalate the decision to accept the documents to Fannie Mae if necessary.

Mortgage Release Transition Options Program

***Servicing Guide,* Part VII, Section 606.01: D4L Program**

Fannie Mae's Deed for Lease (D4L) program allows borrowers who completed a Mortgage Release transaction with Fannie Mae to remain in their home and community by executing a lease in conjunction with a Mortgage Release. Fannie Mae is replacing the term "deed for lease" or "D4L" with "Mortgage Release transition options" and is introducing a new three-month lease option, in addition to the existing twelve-month Mortgage Release transition option program.

Fannie Mae is also changing the review process for the Mortgage Release transition options program. The servicer must inform the borrower of both Mortgage Release transition options as part of the Mortgage Release evaluation. The borrower must be informed of the three exit options:

- immediate move (standard Mortgage Release),
- three-month transition with no rent payment required, and
- twelve-month lease with market rent payment.

Borrower Eligibility

Servicing Guide, Part VII, Section 606.01.01: Eligibility

When determining the eligibility for the Mortgage Release transition options program, the servicer must determine whether the borrower meets all the requirements in this Announcement for a Mortgage Release and the requirements in *Servicing Guide*, Part VII, Section 606.01.01: Eligibility. Servicers are reminded that the mortgaged property may be a principal residence or an investment property which has been leased to a tenant(s) who use the property as a principal residence.

To qualify for the three-month Mortgage Release transition options program, the property must meet all the requirements for the current twelve-month lease option except:

- the subject property must be the borrower's principal residence,
- the income requirement (income sufficient to cover rental payment of not more than 31% of gross income) does not apply,
- no rent payment is required, and
- the borrower must agree to allow the property to be marketed for sale beginning on the 30th day of the lease.

Property Condition

When the property inspection or property valuation reveals damage to the subject property, the servicer must not approve the Mortgage Release transition option if the estimated total cost to repair the subject property is more than 10% of its estimated market value (estimated "As Is" sales price). If the estimated total cost to repair the subject property is between 10% and 15% of market value, the servicer may submit the Mortgage Release transition option to Fannie Mae for written approval.

A subject property with any environmental hazards or legal concern, or for which the cost to repair the property is more than 15% is not eligible for Fannie Mae's Mortgage Release transition options program.

Property Valuation

For Fannie Mae's Mortgage Release transition options program, Fannie Mae requires that the property valuation be based on an interior and exterior inspection of the property which can be either a BPO or an appraisal (performed in accordance with USPAP). In addition, the property valuation for the Mortgage Release transition option must include an estimate of market rent.

> **NOTE:** *The estimated market rent provided in the property valuation is not the binding offer of market rent. The final market rent will be set by Fannie Mae's property management company.*

For Fannie Mae's Mortgage Release transition options program, Fannie Mae does not require a comprehensive property inspection prior to execution of the deed of conveyance. However, the servicer must review the interior property valuation to ensure the subject property's habitability (see Property Condition and Environmental Hazard and Legal Concerns requirements above).

Requesting Fannie Mae's Approval or Notifying of Servicer Approval

When Fannie Mae is required to approve the Mortgage Release, the servicer must obtain Fannie Mae's prior approval prior to accepting any offer of a Mortgage Release. To request Fannie Mae's approval, the servicer must transmit a description of the borrower's financial circumstances, a property valuation, general summary information about satisfaction of the eligibility criteria for Mortgage Release, an indication of whether the borrower can make a cash contribution to reduce Fannie Mae's loss (or is willing to execute a promissory note for the amount of any required contribution), and its recommendation to Fannie Mae through HomeSaver Solutions® Network (HSSN).

A letter including the terms and conditions of Fannie Mae's decision about acceptance of the Mortgage Release will be available to the servicer through HSSN shortly after Fannie Mae receives the servicer's recommendation. If Fannie Mae approves the servicer's recommendation to accept the Mortgage Release, the servicer must have its attorney prepare the deed of conveyance and file a claim with the insurer or guarantor. (Also see Part VIII, Section 106.03: Servicer-Retained Attorneys/Trustees and Special Rules for Nevada, and Chapter 2: Conveyances and Claims.)

Once the servicer receives the executed deed, any cash contribution, the executed promissory note (if applicable) and/or any additional required documentation, it must report the completion of the Mortgage Release to Fannie Mae through HSSN. When the servicer approves a Mortgage Release based on the requirements in this Announcement, it must report the acceptance of the executed deed to Fannie Mae through HSSN within 24 hours.

The servicer also must comply with the requirements for reporting a property acquisition to the credit bureaus, Fannie Mae, and the Internal Revenue Service as described in Part VIII: Foreclosures, Conveyances and Claims, and Acquired Properties.

If Fannie Mae denies the request for a Mortgage Release and instructs the servicer to pursue foreclosure, the servicer must report the initiation of foreclosure in the next delinquency status information it transmits to Fannie Mae after the date of Fannie Mae's decision.

After the servicer enters a closed case into HSSN, Fannie Mae will review the case for eligibility of incentive fees and make a final determination based on the case information provided by the servicer. Approved incentive fees will be paid to servicers once per month in the month following the month in which the Mortgage Release was closed in HSSN.

Accounting and Reporting

Entering Comment Codes in HSSN

Fannie Mae is introducing four new codes, referred to as Comment Codes, that the servicer must provide in the Servicer General Comment section in HSSN, if applicable.

The four Comment Codes are:	
If the borrower …	**Then enter Comment Code …**
mortgage loans that are current or less than 31 days delinquent	**IMDEF**
was approved for Streamlined Documentation	**LFICO**
had the hardship of Permanent Change of Station	**PCSMOVE**
was approved for a Relocation Incentive	**RELOINC**

Current guidance requires the servicer to send an REOgram within 24 hours of the date a Mortgage Release is executed (*Servicing Guide,* Part VIII, Section 116.01: Submitting the REOgram). Fannie Mae is revising this requirement. Servicers must now submit the REOgram within 24 hours of the date the Mortgage Release (including any applicable lien release documents and contact information for the HOA) is recorded.

Servicers are reminded of their responsibility for performing all property maintenance functions to ensure that the condition and appearance of the property are maintained satisfactorily until Fannie Mae assigns that responsibility elsewhere. Servicers are also reminded of their responsibility for advancing funds to pay for taxes, insurance premiums, and any HOA dues on acquired properties.

The servicer must report the acceptance of the Mortgage Release in the next delinquency status information it transmits to Fannie Mae after the date of the servicer's or Fannie Mae's acceptance of the executed deed. The servicer must report the acceptance of the Mortgage Release through Fannie Mae's investor reporting system as either an Action Code 70 (for an uninsured conventional mortgage loan) or an Action Code 72 (for any other type of mortgage loan) to remove the mortgage loan from Fannie Mae's active accounting records.

Updates to Standard Short Sale/HAFA II Requirements

Fannie Mae is updating or clarifying the following short sale requirements, several of which were originally addressed in Announcement SVC-2012-19. Servicers are required to implement the revised requirements for short sales immediately for all loans evaluated for a short sale on or after the date of this Announcement.

Borrower Relocation Incentives

Fannie Mae is clarifying that a borrower is only entitled to receive an incentive payment for a short sale if the property is an occupied principal residence at the time of the Evaluation Notice.

Promissory Note Test and Formula

This Announcement updates the note provided in Announcement SVC-2012-19 in the Promissory Note and Test Formula section. This note should now read (see bolded text for changes):

> **NOTE:** *The borrower's future housing expense, if not known, should be estimated at 75% of the borrower's current monthly mortgage loan payment including any mortgage insurance premiums, taxes, property insurance,* ***HOA or condo association fee payments, and assessments related to the property (whether or not they are included in the current mortgage payment).*** *If the servicer does not escrow for taxes and insurance, the servicer must estimate the borrower's monthly tax and insurance escrow payment.*

Anti-Fraud in Connection with Standard Short Sale/HFAF II

Announcement SVC-2012-19 stated that within 48 hours of closing the short sale, the servicer must ensure that the deed has been recorded in the name of the buyer. Fannie Mae is updating this requirement to state that the servicer must ensure that the deed has been sent for recordation in the name of the buyer within 48 hours of the closing.

Deficiency Waiver for Standard Short Sale/HAFA II

Servicing Guide, Part VII, Section 604: Preforeclosure Sales

Fannie Mae is clarifying that for a short sale the servicer must maintain a copy of the deficiency waiver in the mortgage loan servicing file.

Allowable Subordinate Lien Payments

Fannie Mae is clarifying that a payment of any amount to subordinate lienholders is contingent upon agreement by all lienholders to release their liens and, if they are accepting a payment from Fannie Mae, extinguish the indebtedness secured by the subject property. In addition, subordinate lienholders accepting payment from Fannie Mae must agree in writing to waive all rights to seek a deficiency judgment against the borrower.

If a subordinate lienholder chooses to release its lien to allow the short sale to close, but does not agree to extinguish the indebtedness, it cannot receive a payment from Fannie Mae. Regardless of whether payment is made to a subordinate lienholder, the servicer must obtain written commitment from the subordinate lienholder(s) to release the lien(s).

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Servicers should contact their Servicing Consultant, Portfolio Manager, Investor Reporting Business Analyst, or Fannie Mae's National Servicing Organization's Servicing Solutions Center at 1-888-FANNIE5 (1-888-326-6435) with any questions regarding this Announcement.

Gwen Muse-Evans
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