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Practice Update

GSE COVID-19 Guidance for Sellers and Servicers

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Fannie Mae and Freddie Mac issued several guidance letters and bulletins to sellers and servicers in response to the COVID-19 pandemic.

Fannie Mae

Fannie Mae issued a series of letters and updates providing guidance on originations, appraisals, and servicing to lenders and servicers of single family mortgages. These policies, outlined below, will remain in effect until Fannie Mae rescinds them.

Originations. Fannie Mae took a number of actions related to the loan origination process. In lieu of the required verbal verification of employment in the loan review process, Fannie Mae will temporarily allow lenders to use written verification, recent year-to-date paystubs, and recent bank statements showing payroll deposits. Lenders are also encouraged to practice additional due diligence to ensure continuity of income for borrowers. Sellers whose fiscal-year ends on December 31, 2019 were originally required to submit a financial statement and required Lender Record Information by March 31. Fannie Mae is extending this deadline to April 30. Finally, sellers and servicers are expected to follow their own business continuity plans which must ensure the ability to regain critical business operations in the event of a disruption or disaster.

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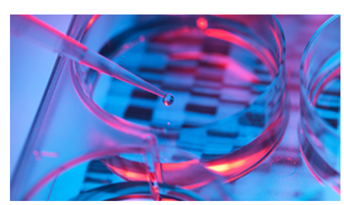

Appraisals. When an interior inspection is not feasible due to COVID-19 concerns, Fannie Mae will temporarily accept exterior-only inspection appraisals or desktop appraisals with exhibits (based on a review of public records, multiple listing service information, and other third-party sources) in lieu of the traditional appraisal requirement requiring interior and exterior inspections. Lenders are encouraged to accept appraisal waiver offers when eligible. Fannie Mae will also accept a letter signed by the borrower confirming the work was completed instead of an Appraisal Update and/or Completion report (Form 1004D) to evidence completion of an appraisal.

Servicing. Fannie Mae is requiring single-family servicers to establish quality right party contact (QRPC) through mail, email, texting, and voice response unit technology to resolve a mortgage loan delinquency. Servicers are also required to report delinquency status information through Fannie Mae's servicing solutions system, including its planned actions on mortgage loans that are greater than 30 days delinquent and the reason for delinquency. Fannie Mae will allow "flexibilities" in conducting certain property inspections such as drive-by inspections when there is a potential danger to the inspector. Fannie Mae will also allow use of alternative data for determining occupancy status when inspection results are unknown due to lack of access. The March 31, 2020 deadline for sellers and servicers whose fiscal-year ends on December 31, 2019 is extended. These sellers and servicers now have until April 30, 2020 to submit financial statements and the required Lender Record Information.

Fannie Mae is also requiring servicers to evaluate borrowers who have experienced a hardship resulting from COVID-19 for a forbearance plan. For borrowers who have received a forbearance plan in response to COVID-19, the servicer must carefully analyze payment deferral or mortgage loan modification options 30 days prior to the expiration of the forbearance plan. Servicers must suspend reporting the status of a delinquent loan during an active forbearance or other repayment plan if a borrower suffering a hardship resulting from COVID-19 is making the required payments. Finally, servicers must suspend all foreclosure sales for 60 days, beginning on March 18.

Fannie Mae's forbearance requirements are similar to forbearance provisions in the federal CARES Act, discussed in an Akerman alert located here. For more details on foreclosures suspensions across the country, see Akerman's Interactive Foreclosure Map located here.

Freddie Mac

Freddie Mac also issued guidance for sellers and servicers in response to the pandemic. These policies, outlined below, will remain in effect until Freddie Mac rescinds them.

Servicing. Freddie Mac is prohibiting credit reporting regarding a borrower who is on an active forbearance, repayment, or trial period plan due to a hardship related to the pandemic. A COVID-19 related hardship is deemed an eligible hardship under the Freddie Mac Seller/Servicer Guide section 9202.2, which also includes long-term or permanent disability or serious illness of a borrower or dependent family member, reduction in income, and death. Servicers are also required to achieve QRPC to verify the hardship and apply the appropriate solution, including a forbearance plan. Servicers are authorized to approve forbearance plans for all borrowers who have a COVID-19 related hardship, regardless of property type. Freddie Mac is also allowing for forbearance requests from borrowers not only with mortgage loans secured by a primary residence, but also borrowers with loans secured by a second home or investment property .

Servicers are required to evaluate borrowers with a COVID-19 related hardship for the Extend

Modification and the Cap and Extend Modification programs, special loan modification initiatives for loans affected by a disaster, in accordance with the requirements in the Freddie Mac Seller/Servicer Guide section 9206.4, as discussed in in Bulletin 2017-25. Under this requirement, a servicer must initiate outreach attempts no later than 30 days prior to the end of the borrower's pandemic related forbearance, and continue to make contact attempts until QRPC has been established or until the forbearance plan has expired. If QRPC is established with a borrower who was 31 days or more delinquent prior to the March 13 COVID-19 National Emergency Declaration, the borrower is not eligible for the Extend Modification or Cap and Extend Modification programs. If QRPC is established with a borrower who was current or less than 31 days delinquent prior to the emergency declaration, a servicer must evaluate the borrower for the following loss mitigation options, in order: (i) extend modification, (ii) cap and extend modification, (iii) short sale, (iv) deed-in-lieu of foreclosure.

If QRPC is not established at the end of the COVID-19 related forbearance period and a borrower is eligible for a streamlined offer for a Flex Modification, the Servicer must send the borrower a Flex Modification offer.

Further, servicers are required to notify Freddie Mac of any borrower who has a COVID-19 related hardship by reporting default reason code 032 (Freddie Mac converted this code for reports of a 'National Emergency Declaration.') Servicers are also relieved from their responsibility to: (i) complete property inspections related to the insurance loss settlements process described in Seller/Servicer Guide section 8202.11; (ii) complete property inspections for delinquent mortgages as described in Seller/Servicer Guide section 9202.12; and (iii) adhere to the property preservation requirements for abandoned properties in Seller/Servicer Guide section 8403.1.

In addition, servicers are required to use telephone contacts or face-to-face interviews, written communications, and other responsible collection techniques such as email and text-messaging in efforts to collect on a delinquent mortgage. Moreover, the annual reporting deadline of March 31(for servicers and sellers) has been extended to April 30 for the following: (1) Guide Form 16SF, Annual Eligibility Certification Report, (see Guide section 2101.10); (2) audited or reviewed financial statements, as required in Guide section 2101.4; and (3) Annual Document Custodian Eligibility Certification (see Chapter 1 of the Document Custodian Procedures Handbook). Sellers and servicers are also permitted to use electronic signatures and records as part of the origination and closing processes. Finally, Freddie Mac is suspending all foreclosure sales for 60 days beginning March 18.

Several of Freddie Mac's forbearance requirements are similar to provisions in the federal CARES Act, discussed in an Akerman alert located here. For more details on foreclosures suspensions, see Akerman's Interactive Foreclosure Map located here.

Selling. Freddie Mac took actions similar to Fannie Mae related to originations and appraisals for mortgages with application received dates on or before May 17. Sellers are allowed to obtain an email from an employer, recent year-to-date paystubs, or an asset account statement showing payroll deposits to verify employed income as part of the credit underwriting process in lieu of obtaining one of the 10-day pre-closing verification types otherwise required. Lenders are encouraged to practice additional due diligence to ensure continuity of income for borrowers. Finally, sellers and servicers are expected to follow their own business continuity plans which must ensure the ability to regain critical business operations in the event of a disruption or disaster.

Appraisals. Freddie Mac will temporarily accept an exterior-only inspection appraisal or desktop appraisal with exhibits when an interior inspection is not possible due to the pandemic, (based on a review of public records, multiple listing service information, and other third-party sources). Lenders are also encouraged to accept appraisal waiver offers provided through Loan Product Advisor. Eligibility for appraisal waivers to include certain cash-out and "no cash-out refinances." Finally, instead of an Appraisal Update and/or Completion report (Form 442) to evidence completion of an appraisal, Freddie Mac will accept a letter signed by the borrower confirming that the work was completed. These appraisal flexibilities may not be used with CHOICERenovation Mortgages or GreenCHOICE mortgages.
