

Bulletin

NUMBER: 2009-22

TO: Freddie Mac Sellers and Servicers

August 20, 2009

SUBJECTS

Both selling and Servicing requirements are amended with this *Single-Family Seller/Servicer Guide* ("Guide") Bulletin.

With this Bulletin, we are making the following changes to our selling requirements:

- Providing guidance regarding 2009 area median income changes
- Amending appraisal requirements for super conforming Mortgages
- Updating the Guide to reflect that super conforming Mortgages may not be pooled in mini-Gold PC Pools
- Updating Form 1077, *Fannie Mae/Freddie Mac Uniform Underwriting and Transmittal Summary* to include recently announced revised Project Classification codes for Mortgages delivered to Fannie Mae

We are also announcing a correction to Form 91, *Income Analysis Form*, and to Loan Prospector resubmission requirements announced in Bulletin 2009-18.

We are making the following change to our selling and Servicing requirements:

- Form 16SF, *Annual Eligibility Certification Report*, has been revised to require additional information about a Seller/Servicer's Office of Foreign Assets Control compliance and anti-money laundering controls

We are making the following changes to our Servicing requirements:

- Providing additional guidance around maintaining and reconciling Principal and Interest Custodial Accounts and Escrow Custodial Accounts
- Providing further guidance regarding the negotiation of broker real estate commissions on a short payoff
- Including new expense reimbursement codes for attorney fees related to bankruptcy in Exhibit 74, *Expense and Income Codes for Form 104SF*

Effective dates

All of these changes are effective immediately except for the following:

- **November 1, 2009** – Sellers may use the 2009 area median income estimates immediately, but must use them to originate Mortgages delivered to Freddie Mac on or after this date

Revisions to the Guide

The revisions included in this Bulletin impact the following:

- Chapters 13, 24, J33, L33, 50, 58, 65, A65, B65, 77, 79, and 83
- Exhibits 17S, 25 and 74
- Forms 91, 483, and 1077

SELLING REQUIREMENTS

Area median income guidance

In prior years, the Department of Housing and Urban Development issued area median income estimates each year. These estimates were used to determine Freddie Mac's performance under the affordable housing goals, and Sellers use these estimates to underwrite Home Possible® Mortgages.

Beginning in 2009, the Federal Housing Finance Agency issues these area median income estimates, which are now available for 2009.

Sellers may use the 2009 estimates immediately, but must use them to originate Mortgages delivered to Freddie Mac on or after **November 1, 2009**. Both Loan Prospector® and the Affordable Income & Property Eligibility tool – available on FreddieMac.com at <http://www3.freddiemac.com/ds2/sell/affgold.nsf/frmHomePage?OpenForm> – have been updated to reflect the 2009 area median incomes.

Super conforming Mortgages

Appraisal requirements

We are amending appraisal requirements for super conforming Mortgages to require Form 1032, One-Unit Residential Appraisal Field Review Report, only when the LTV/TLTV/HTLTV ratio is greater than 75% and the value is \$1,000,000 or greater.

Chapter L33 has been revised to reflect this change.

Exhibit 25 Update

Exhibit 25, Mortgages with Risk Class and/or Minimum Indicator Score Requirements, has been updated to reflect the summary of the Loan Prospector® Risk Class and Indicator Score requirements for super conforming Mortgages.

Super conforming Mortgages not eligible for mini-Gold PC Pools

Chapter 13 and Exhibit 17S, Mortgage Products Available Through the Selling System, have been updated to reflect that super conforming Mortgages may not be pooled in mini-Gold PC Pools.

Uniform Underwriting and Transmittal Summary

Freddie Mac has updated the Form 1077 to include the recently announced revised Project Classification codes for Mortgages delivered to Fannie Mae. There is no change in the Project Classification codes for Mortgages delivered to Freddie Mac.

Since there has been no change to the Freddie Mac Project Classification codes, Freddie Mac will continue to accept the prior version of the Form 1077 indefinitely.

Texas Equity Section 50(a)(6) Mortgages

We have revised Chapters 24 and J33 to clarify that Initial InterestSM Mortgages continue to be ineligible as Texas Equity Section 50(a)(6) Mortgages.

Bulletin 2009-18 corrections

Form 91, Income Analysis Form

In Guide Bulletin 2009-18, published on **July 10, 2009**, we introduced new Form 91, Income Analysis Form, to aid the Seller in the calculation of self-employed and commission income. With this Bulletin we are announcing a correction to the Form 91 to add a line item for Net Farm Profit or Loss under item 7, Schedule F – Profit or Loss from Farming. A Seller using Form 91 must use the corrected version of Form 91 immediately.

Resubmissions to Loan Prospector – application dates

Guide Bulletin 2009-18 stated in error that Sellers with resubmissions to Loan Prospector on and after **September 27, 2009** and with application dates prior to **September 27, 2009** may apply the requirements in effect prior to the Bulletin. We have corrected this paragraph in the Bulletin to state the following:

*Loan Prospector feedback messages related to these changes will be implemented in the system **September 27, 2009** for submissions and resubmissions prior to the **October 1, 2009** effective date for new applications. Sellers with resubmissions to Loan Prospector on and after **September 27, 2009** and with application dates prior to **October 1, 2009** may apply the requirements in effect prior to this Bulletin to complete these loans under the prior guidelines and deliver before **January 1, 2010**.*

SELLING AND SERVICING REQUIREMENTS

Annual Eligibility Recertification Report

Form 16SF, *Annual Eligibility Certification Report*, has been revised to require additional information about a Seller/Service's Office of Foreign Assets Control compliance and anti-money laundering controls. Form 16SF is available on FreddieMac.com at <http://www.freddiemac.com/singlefamily/doingbusiness/acctmaintain.html>.


SERVICING REQUIREMENTS

Custodial accounts

We are providing additional guidance around maintaining and reconciling Principal and Interest Custodial Accounts and Escrow Custodial Accounts. We are also adding an express statement to the Guide to further reinforce an existing requirement that a positive balance must be maintained in these accounts.

Sections 77.6, 79.9, 79.10, 79.18 and 79.21 have been revised to reflect these updates.

Negotiation of broker real estate commissions on a short payoff

 Chapter B65, *Workout Options*, has been updated to provide Servicers further guidance regarding the negotiation of broker real estate commissions on a short payoff.

Unless a real estate broker's sales commission exceeds 6% of the property sales price, Servicers must not, as a condition of the Servicer's acceptance of an offer, renegotiate the real estate broker's sales commission to an amount that is lower than the amount that was originally agreed upon between the broker and the Borrower. In the event the sales commission exceeds 6%, the Servicer must renegotiate the commission to limit it to 6% of the property sales price.

Servicers must continue obtaining all applicable third party approvals and ensuring that the transaction is arms-length in accordance with the requirements specified in Section B65.37.

Section B65.37 has been revised to reflect this change.

New expense reimbursement codes for attorney fees related to bankruptcy

Expense reimbursement codes for attorney fees related to bankruptcy have been expanded in the Online Reimbursement System to include individual expense reimbursement codes for the specific chapter of bankruptcy (i.e., chapters 7, 11, 12 and 13) filed by the Borrower. The system has been updated such that Servicers are now required to select the bankruptcy attorney fee that applies (i.e., chapter 7, 9, 11 or 13).

These new expense reimbursement codes have been added to Exhibit 74. Expense and Income Codes for Form 104SF.

CONCLUSION

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call (800) FREDDIE.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia J. McClung", with a long horizontal flourish extending to the right.

Patricia J. McClung
Vice President
Offerings Management

On August 20, 2009, Freddie Mac confirmed in writing that its servicers are not allowed to renegotiate short sales commissions. According to the policy, as a condition of the servicer's acceptance of a short sale offer, servicers cannot renegotiate the sales commission below the amount agreed to by the real estate broker and the seller/borrower. However, if the negotiated commission exceeds 6 percent, servicers are required to limit it to 6 percent. This Freddie policy is consistent with Fannie Mae's policy.

NAR has asked Freddie to establish an appeals process for cases when servicers refuse to comply with Freddie Mac's policy.

Links to more in depth information can be found here:

Freddie Mac Single-Family Seller/Servicer Guide Bulletin 2009-22 (August 20, 2009)

<http://www.freddiemac.com/sell/guide/bulletins/pdf/bl0922.pdf>

Fannie Mae Short Sales Commissions Policy and Appeals Process

http://www.realtor.org/wps/wcm/connect/4fb4f4804e824cf0a6e8e696c79aa288/government_affairs_fannie_short_sales_policy.pdf?MOD=AJPERES&CACHEID=4fb4f4804e824cf0a6e8e696c79aa288

NAR's Short Sales Website

http://www.realtor.org/realtors/basics_short_sales