

Announcement 03-14

December 17, 2003

Amends these Guides: Servicing and Selling

Bankruptcy-Related Matters, Delivery Data, and Subordinate Financing

This Announcement describes procedural timelines within which bankruptcy proceedings are to be completed, reminds lenders of our data reporting requirements, and clarifies our requirement for lenders to resubordinate existing liens when refinancing original loans.

Bankruptcy-Related Matters

We continuously review our bankruptcy procedures to evaluate their effectiveness and identify any changes that may be appropriate. This Announcement discusses several enhancements that we are making as a result of our latest review to ensure that bankruptcies are managed in a timely and effective manner. Specifically, we are now requiring servicers to proactively monitor bankruptcy filings in order to identify bankruptcies at the time a borrower actually files the bankruptcy. We are also introducing allowable timelines within which we expect bankruptcy proceedings to be completed. These enhancements will encourage servicers to use bankruptcy monitoring technology in managing bankruptcy timelines.

Bankruptcy Timelines

In order to ensure that a bankruptcy is handled in a timely and professional manner, the servicer will continue to be responsible for monitoring the attorney or trustee it retains (except when the servicer utilizes a Fannie Mae-retained attorney and sends eligible loan(s) as a “Fannie Mae referral”). We are announcing the following bankruptcy timelines within which we expect routine bankruptcy proceedings to be completed for all bankruptcy referrals beginning on or after March 1, 2004.

Chapter 7 Bankruptcy Filings

- If the loan is current or is less than 60 days delinquent and the borrower has filed a Chapter 7 proceeding, the servicer must wait until the loan becomes 60 days delinquent

and then refer the case to a bankruptcy attorney. The servicer must send the referral no later than two (2) weeks from the 60th day of delinquency. The timeline allowed for completing a Chapter 7 bankruptcy case under these circumstances is two (2) months and two (2) weeks from the 60th day of delinquency.

- If the loan is 60 or more days delinquent or is in foreclosure when the borrower files a Chapter 7 proceeding, the servicer must refer the case to a bankruptcy attorney. The servicer must send the referral no later than two (2) weeks after the bankruptcy is filed. The timeline allowed for completing a Chapter 7 bankruptcy case under these circumstances is two (2) months and two (2) weeks from the date of the bankruptcy filing.

Case completion for a Chapter 7 bankruptcy proceeding is defined as the termination of the automatic stay, the case being dismissed or closed, or when the trustee abandons all interest in the secured property.

Attachment 1 to this Announcement summarizes these requirements.

Chapter 11 Bankruptcy Filings

- If the loan is current or delinquent and the borrower has filed a Chapter 11 proceeding, the servicer must refer the case to a bankruptcy attorney. The servicer must send the referral no later than two (2) weeks from the date of the bankruptcy filing. No timeline for completing a Chapter 11 case will be assessed at this time.

Attachment 1 to this Announcement summarizes these requirements.

Chapter 12 and Chapter 13 Bankruptcy Filings

- If the loan is current or is less than 60 days delinquent and the borrower has filed either a Chapter 12 or Chapter 13 proceeding, the servicer must wait until the loan becomes 60 days delinquent and then refer the case to a bankruptcy attorney. The servicer must send the referral no later than two (2) weeks from the 60th day of delinquency. However, the servicer should refer the case earlier to a bankruptcy attorney if it believes that the bankruptcy may affect the borrower's obligations under the terms of the note or mortgage or if it believes that an attorney needs to review the proposed Chapter 13 bankruptcy plan due to its complexity or potential effect on the borrower's obligations. The servicer will be held responsible for ensuring that the bankruptcy is appropriately handled prior to the referral to the bankruptcy attorney. The timeline allowed for completing either a Chapter 12 or Chapter 13 bankruptcy case under these circumstances is five (5) months and two (2) weeks from the 60th day of delinquency (or from the date of referral to a bankruptcy attorney, whichever occurs first).
- If the loan is 60 or more days delinquent or is in foreclosure when the borrower files either a Chapter 12 or a Chapter 13 proceeding, the servicer must refer the case to a bankruptcy attorney. The servicer must send the referral no later than two (2) weeks after the bankruptcy is filed. The timeline allowed for completing a Chapter 13

bankruptcy case under these circumstances is five (5) months and two (2) weeks from the date of the bankruptcy filing.

Case completion for either a Chapter 12 or a Chapter 13 bankruptcy proceeding is defined as the termination of the automatic stay, the case being dismissed or closed, when the trustee abandons all interest in the secured property, or when the Chapter 12 or 13 plan is confirmed.

- After confirmation of either a Chapter 12 or Chapter 13 plan, if the mortgagor becomes 60 days delinquent in making payments pursuant to the Chapter 12 or Chapter 13 plan, the servicer should send a new referral to the bankruptcy attorney. The servicer must send the referral no later than two (2) weeks from the 60th day of delinquency. Please note that the servicer is responsible for ensuring that all previous payments have been properly applied and for verifying that the borrower is 60 days delinquent before sending the referral. The timeline for completing the case under these circumstances is two (2) months and two (2) weeks from the 60th day of delinquency.

Attachment 2 to this Announcement summarizes these requirements.

Reporting

The servicer should report the appropriate delinquency status code and reason code on the next scheduled delinquency status transmission when a borrower has filed for bankruptcy (even if the loan is contractually current).

Delays in the Bankruptcy Process

The bankruptcy timelines in this Announcement represent the time by which we expect a routine bankruptcy proceeding to have been concluded, given the applicable legal requirements. We recognize that there are a variety of issues that may cause delays in completing bankruptcy cases. Examples include but are not limited to: 1) the borrower is performing in accordance with an adequate protection order or stipulation, 2) a bankruptcy trustee is attempting to sell the property securing the loan, or 3) jurisdictional constraints are present.

We will be monitoring the servicer's management of the bankruptcy process based on the timeframes outlined earlier in this Announcement by regularly reviewing bankruptcy files. The servicer is responsible for ensuring that all pre-petition and post-petition payments are properly applied and monitored in accordance with all applicable laws and Part VII, Section 406.02 of our Servicing Guide.

If there appears to have been a delay in completing the bankruptcy process and the servicer is unable to provide a reasonable explanation for the delay, we may require the servicer to pay a compensatory fee. In addition, the servicer may be required to pay a compensatory fee for any losses incurred as a result of the servicer's failure to properly apply and monitor payments during the bankruptcy process.

The servicer will be responsible for any delays attributable to the servicer in both network and non-network cases and for delays attributable to the bankruptcy attorney in non-network cases. The servicer will not be held responsible for timeline delays attributable to the bankruptcy attorney if the servicer elects to refer the case through the Fannie Mae-retained attorney network nor will we require the servicer to monitor the performance of the Fannie Mae-retained attorney. However, the referred loan must be properly identified as a “Fannie Mae Referral” and must be eligible for referral under our current guidelines. Attachment 3 to this Announcement provides an updated list of the names, addresses, and telephone numbers for the three Fannie Mae-retained bankruptcy attorneys.

Following the completion of a case and if appropriate, the servicer must immediately send any required “breach” letter to the borrower (if it was not previously sent) and must refer the loan to an attorney to initiate (or resume) foreclosure proceedings in accordance with Part VII, Section 406.02 of the Servicing Guide. Failure to do so may result in the servicer having to pay a compensatory fee.

Compensatory fees will take into consideration the outstanding principal balance of the loan, the applicable pass-through rate, the length of the delay, and any additional costs that are directly attributable to the delay.

Reporting Required Data at Loan Delivery

Our recent Announcement 03-08 outlined new and revised reporting requirements at loan delivery associated with changes made by the USA Patriot Act and the Federal Reserve System’s Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). Use of the “not applicable” field has raised questions about the relationship between our delivery requirements and HMDA. Fannie Mae’s delivery requirements are separate and apart from HMDA and sellers of mortgages to Fannie Mae are required to provide race, ethnicity, and other data at the time of delivery. This Fannie Mae delivery policy extends to loans purchased by the seller from another originator. Fannie Mae expects the race and ethnicity data for all loans sold to us, without regard to the loan’s origination status. The use of the “not applicable” code is limited to the case when the borrower being defined is an entity.

Selling Guide - Part VII: Mortgage Eligibility

Chapter 1, Conventional Mortgages, Section 104.08, Subordinate Financing. When a lender sells us first lien mortgages, it represents and warrants that the property is free and clear of all encumbrances and liens having priority over the lien of our mortgage (except for certain liens for taxes and assessments not yet due and payable). With respect to refinance mortgages, this representation means that any subordinate liens in existence prior to the refinance must have been subordinated to the lien of the new refinance loan in accordance with the provisions of Section VII, 104.08 of the Selling Guide. Obtaining insurance against the possibility that a former junior lien will not be properly subordinated to the refinance

loan does not release the lender from this representation and warranty or from compliance with the Selling Guide.

Servicers should contact their Servicing Representative in their lead Fannie Mae office with any questions about the bankruptcy procedures. Questions concerning loan delivery data requirements or our subordination policy should be directed to the lender's Customer Account Manager.

Pamela S. Johnson
Senior Vice President

Attachments (3)

Attachment 1

Chapter 7 Bankruptcy Matrix

Delinquency Status	When to Refer to an Attorney	Timeline for Case Completion
Loan is current or less than 60 days delinquent when the bankruptcy is filed	Must wait until the loan is 60 days delinquent. Then refer no later than 2 weeks from the 60 th day of delinquency	2 months and 2 weeks from the 60 th day of delinquency to case completion
Loan is 60 or more days delinquent or in foreclosure when the bankruptcy is filed	Refer no later than 2 weeks after the bankruptcy is filed	2 months and 2 weeks from the date of the bankruptcy filing to case completion
Case completion for a Chapter 7 bankruptcy proceeding is defined as: automatic stay terminated, case dismissed or closed, or the trustee abandons all interest in the secured property.		

Chapter 11 Bankruptcy Matrix

Delinquency Status	When to Refer to an Attorney	Timeline for Case Completion
Loan is current or delinquent when the bankruptcy is filed	Refer no later than 2 weeks from the date of the bankruptcy filing	No timeline implemented at this time

Attachment 2

Chapter 12 & 13 Bankruptcy Matrix

Delinquency Status	When to Refer to an Attorney	Timeline for Case Completion
Loan is current or less than 60 days delinquent when the bankruptcy is filed	Must wait until the loan is 60 days delinquent or may refer earlier if servicer believes it is necessary, but no later than 2 weeks from the 60 th day of delinquency	5 months and 2 weeks from the 60 th day of delinquency (or from the date of referral to a bankruptcy attorney, whichever occurs first) to case completion
Loan is 60 or more days delinquent or in foreclosure when the bankruptcy is filed	Refer no later than 2 weeks after the bankruptcy is filed	5 months and 2 weeks from the date of the bankruptcy filing to case completion
After confirmation of either a Chapter 12 or Chapter 13 plan, the mortgagor becomes 60 days delinquent making payments pursuant to the plan	Refer when the loan is 60 days delinquent, but no later than 2 weeks from the 60 th day of delinquency	2 months and 2 weeks from the 60 th day of delinquency
Case completion for a Chapter 12 or 13 bankruptcy proceeding is defined as: automatic stay terminated, plan confirmed, case dismissed or closed, the trustee abandons all interest in the secured property, or the Chapter 12 or 13 plan is confirmed.		

Attachment 3

Fannie Mae-Retained Bankruptcy Attorneys (11/03/03)

Jurisdictions: National	Jurisdictions: National
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