

## ***Servicing Guide* Announcement SVC-2012-11**

June 13, 2012

### **Updates to Compensatory Fees and Allowable Foreclosure Time Frames**

This Announcement describes updates to and clarification of the following:

- compensatory fee assessment and appeals,
- maximum allowable foreclosure time frames in twelve jurisdictions, and
- the preferred method of foreclosure for Montana and Nebraska.

This Announcement applies to all conventional mortgage loans held in Fannie Mae's portfolio and MBS pool mortgage loans guaranteed by Fannie Mae.

### **Effective Date**

The changes apply to all mortgage loans with a foreclosure sale date on or after January 1, 2012, or to any Fannie Mae mortgage loan referred to an attorney (or trustee) to initiate foreclosure proceedings on or after January 1, 2012.

### **Updates to Compensatory Fee Assessment and Appeals**

#### ***Servicing Guide*, Part I, Section 201.11.07: Delays in the Liquidation Process; Part VIII, Section 106.08: Allowable Time Frames for Completing Foreclosure**

As outlined in the *Servicing Guide*, Fannie Mae may select compensatory fees as the appropriate remedy for delays in connection with a completed foreclosure. Fannie Mae assesses a compensatory fee if the entire period from the date the delinquency began (the last paid installment or LPI date) through the foreclosure sale date is longer than Fannie Mae's maximum number of allowable days in the *Foreclosure Time Frames and Compensatory Fee Allowable Delays* document on [eFannieMae.com](http://eFannieMae.com).

Fannie Mae will assess the servicer's foreclosure time frame performance at the state level and on a monthly basis using the following process. At the loan level, Fannie Mae will calculate the number of days the servicer took to complete the foreclosure process, and determine whether the days are fewer than the allowable time frame ("under-standard") or in excess of the allowable time frame ("over-standard"). The compensatory fee or "credit" for each mortgage loan will be calculated using the unpaid principal balance of the mortgage loan, the applicable pass-through rate, and the number of days the loan was over- or under-standard, respectively. Fannie Mae will then apply any "credits," if applicable, to offset any compensatory fees that the servicer has incurred for over-standard performance at the state level and within that billing month.

After any applicable "credits" are applied, if the servicer's performance is under-standard for the state being evaluated, the servicer will not have a compensatory fee for that state. The servicer may not, however, apply the remaining "credit" toward any compensatory fees resulting from over-standard performance in another state. Additionally, any under-standard "credits" may not be applied to compensatory fee invoices in subsequent months. State-level balances will be summarized and the servicer will be billed accordingly each month. Compensatory fees will not be assessed if a servicer's aggregate amount of monthly compensatory fees is \$1,000 or less.

The Attachment provides illustrations of how these compensatory fees will be calculated.

Should a servicer choose to appeal a compensatory fee in connection with a delay that is outside of the servicer's control, it must submit an appeal with all relevant supporting documentation to Fannie Mae via the Fannie Mae File Transfer Portal. Supporting documents may include but are not limited to attorney chronologies, servicing notes, or court documents. When the compensatory fee invoice is provided to the servicer, a template for appeals as well as detailed instructions for appealing compensatory fees will be included.

For all foreclosure sales on or after January 1, 2012, servicers may appeal compensatory fee assessments for both over-standard and under-standard performance. Additionally, servicers may request recalculation of compensatory fees in instances where data that was initially reported to Fannie Mae was incorrect.

Servicers must summarize and provide supporting documentation for all uncontrollable delays for which an adjustment is being requested in the original appeal. Additional delays claimed in subsequent appeals will not be considered.

## Updates to Allowable Foreclosure Time Frames

### ***Servicing Guide*, Part VIII, Section 106.08: Allowable Time Frames for Completing Foreclosure**

Fannie Mae has updated the maximum number of allowable days within which routine foreclosure proceedings are to be completed in twelve jurisdictions as provided in the *Servicing Guide*. The maximum number of allowable days has been increased for the following jurisdictions: Arkansas, Connecticut, Delaware, Florida, Idaho, Maryland, New Jersey, New Mexico, New York (Up and Down State), North Dakota, and Puerto Rico.

Additionally, in *Foreclosure Time Frames and Compensatory Fee Allowable Delays*, the preferred method of foreclosure for Montana and Nebraska has been corrected to state "Non-Judicial."

As discussed above, when determining the servicer's compliance with Fannie Mae's time frames for completing foreclosure, adjustments are made for allowable delays. Fannie Mae has changed the delays that it considers when determining the servicer's foreclosure time frame. Allowable delays and the applicable number of days permitted for each delay are now shown in the revised *Foreclosure Time Frames and Compensatory Fee Allowable Delays* document.

One type of allowable delay is unemployment forbearance. As outlined in Announcement SVC-2012-01: *Introductions of Fannie Mae Unemployment Forbearance*, during unemployment forbearance, the servicer must report Delinquency Status Code 09 – Forbearance and Delinquency Reason Code 16 – Unemployment. Servicers must report this delinquency status code and delinquency reason code in order to be given credit for unemployment forbearance as an allowable delay.

Delays due to urgent or unforeseeable circumstances or for situations in which applicable law necessitates additional time may also be considered, however, such circumstances should be rare. If the servicer appeals compensatory fees on such grounds, all relevant information and supporting documentation must be provided to Fannie Mae at the time of the original appeal.

Servicers are reminded that Fannie Mae relies on delinquency status code data and other information submitted by the servicer to identify delays in the foreclosure process. Furthermore, the servicer's failure to report on an accurate and timely basis and to otherwise comply with the requirements of the *Servicing Guide* may result in the imposition of compensatory fees separate from compensatory fees that may be imposed for foreclosure time frame non-compliance. Additionally, Fannie Mae reserves the right to review all seriously delinquent mortgage loans currently in the default management process and to pursue remedies on such mortgage loans, when it deems appropriate, which may be prior to liquidation of the loan.



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Servicers should contact their Servicing Consultant, Portfolio Manager, 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.

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## Attachment

The four examples provided below illustrate how compensatory fees will be calculated using the formula:  
Unpaid Principal Balance (UPB) x Daily Pass Through Rate (PTR/365) x Number of Days Delayed

### Example #1: Loan Level Compensatory Fee Calculation

In this loan-level example, the servicer exceeded Fannie Mae's allowable foreclosure time frame by 71 days and would therefore be billed a compensatory fee in the amount of \$ 923.97.

Property Located in Florida	
Unpaid Principal Balance (UPB)	\$100,000
Pass Through Rate (PTR)	4.75%
Last Paid Installment date (LPI)	02/01/2012
Foreclosure Sale Date	02/01/2014
Servicer's Overall State Foreclosure Time Frame	731 days
Fannie Mae's Overall Allowable Foreclosure Time Frame for Florida	660 days
Number of Days Over Allowable Foreclosure Time Frame	71 days
Allowable Delays Reported	0 days
Compensatory Fee (or Credit)	$(\$100,000)(.0475/365)*(71) = \$ 923.97$

## Example #2: Loan-Level Example That Does Not Result in a Compensatory Fee

In this loan-level example, the servicer performed under Fannie Mae's allowable foreclosure time frame by 21 days, so a compensatory fee would not be assessed against the servicer for this loan. The \$273.29 could be used to offset a compensatory fee assessed for over-standard performance on another loan in this state and in the same billing period.

<b>Property Located in Florida</b>	
Unpaid Principal Balance (UPB)	\$100,000
Pass Through Rate (PTR)	4.75%
Last Paid Installment date (LPI)	02/01/2012
Foreclosure Sale Date	11/01/2013
Servicer's Overall State Foreclosure Time Frame	639 days
Fannie Mae's Overall Allowable Foreclosure Time Frame for Florida	660 days
Number of Days Under Allowable Foreclosure Time Frame	- 21 days
Allowable Delays Reported	0 days
Compensatory Fee (or Credit)	$(\$100,000)(.0475/365)*(-21) = (\$273.29)$

### Example #3: State-Level Netting That Does Not Result in a Compensatory Fee

In example #3, the servicer's performance on the 10 mortgage loans was under-standard as compared to Fannie Mae's allowable foreclosure time frame. As such, a compensatory fee would not be assessed against the servicer in this state; there would not be a credit issued to the servicer in the form of cash, nor could the \$350 be applied as a credit against a compensatory fee invoice for this servicer in the future.

<b>Foreclosed Mortgages</b>	<b>Compensatory Fee or Credit</b>
1	\$ 900
2	\$ 800
3	(\$1,800)
4	(\$ 600)
5	\$ 400
6	\$ 600
7	\$1,000
8	(\$ 850)
9	\$ 450
10	(\$1,250)
Net amount of compensatory fee (or credit), in aggregate by state	(\$ 350)

## Example #4: State-Level Netting Resulting in a Compensatory Fee

In example #4, the servicer's performance exceeded Fannie Mae's allowable foreclosure time frame on the 10 mortgage loans and it would therefore be billed a compensatory fee of \$2,150.

Foreclosed Mortgages	Compensatory Fee or Credit
1	\$1,200
2	\$ 800
3	(\$1,000)
4	(\$ 600)
5	\$1,000
6	\$ 600
7	\$1,500
8	(\$ 850)
9	\$ 450
10	(\$950)
Net amount of compensatory fee (or credit), in aggregate by state	\$2,150