

Multifamily Seller/Servicer Guide

Chapter 44

Delinquency, Default and Loss Mitigation Strategies

44.1 General requirements for dealing with Delinquencies (09/28/12)

The Servicer must treat each Delinquency or default individually, based on its knowledge of the Borrower, the location and type of Property, and the extent and circumstances of the Delinquency or default.

The Servicer must react quickly and diligently when the Borrower is not promptly paying all Mortgage installments when due.

a. Contact with the Borrower (09/28/12)

The Servicer must contact the Borrower by telephone, in person or in writing on or before the 10th day after a payment is due and remains unpaid, without regard to any grace period, to ascertain the reason for the late payment and the Borrower's intentions to cure.

When contacting a Delinquent Borrower, the Servicer must try to obtain, if not already provided, the following documents:

- A current rent roll, with the names of all tenants, the amount of rent for each unit, the date to which rent has been paid and the details of all leases
- The prior year's income and expense statement
- A year-to-date income and expense statement
- Financial statements from any guarantor(s).

The Servicer must contact the Borrower immediately if the Borrower does not make required payments or other cures when promised. If the Borrower does not cure a Mortgage Delinquency when promised, the Servicer must immediately notify Multifamily Loan Accounting.

b. Reporting to Freddie Mac (09/28/12)

1. Monthly report of Delinquencies and Foreclosures

Every Servicer must submit a Monthly Report of Delinquencies and Foreclosures via MultiSuite for Investor Reporting[®], regardless of Freddie Mac's percentage of ownership of the Mortgage serviced. The Servicer must transmit the report even if the Servicer has no Delinquent Mortgages or Mortgages in foreclosure.

The Servicer must perform the automated transmission of the Monthly Report of Delinquencies and Foreclosures via MultiSuite for Investor Reporting by 3:00 p.m. Eastern

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time on the third Business Day of each month. The Servicer is responsible for ensuring the accuracy and integrity of the data submitted to Freddie Mac. Transmissions must be usable, accurate and timely. For details on the applicable programming requirements and transmission instructions, the Servicer must contact Multifamily Loan Accounting.

The Servicer must fulfill all Freddie Mac requests for further information regarding the Delinquency within three days after the request.

2. Multifamily Delinquency reporting noncompliance fees

Freddie Mac may assess Delinquency reporting noncompliance fees against the Servicer if the Servicer fails to provide timely, complete and accurate reports. Any Servicer that fails to comply with the reporting requirements set forth in this section is subject to the following Delinquency reporting noncompliance fees:

Fee Type	Cause/Description	Amount
Delinquency (for a consecutive 12-month period)	Late, omitted or unusable monthly loan	1 st month - \$250
	Delinquency reporting data	2 nd month - \$550
		3 rd month - \$1,000
		Each add'l month - \$1000

Freddie Mac will assess only one Delinquency reporting noncompliance fee per month regardless of the number of violations that occur in that month. Freddie Mac will send the Servicer a written notification of each violation. Fees are due to Freddie Mac no later than the fifth Business Day after the first accounting cutoff date following the missed reporting due date. The Servicer must remit the fee using the telephonic cash remittance system described in Section 53.7. The cash statement for the accounting cycle in which the fee is due will reflect the fee.

c. Default analysis (09/01/16)

Upon the occurrence of a Delinquency or at the request of Freddie Mac, the Servicer must provide to Freddie Mac the default analysis items listed below and fulfill all other requests by Freddie Mac for further information within ten days after any such request.

1. Form 1101, Legal Referral Form

The Form must include the current, verified, address and other contact information for each of the following:

- Borrower
- Borrower Principals, including general partner, or managing member, or president
- Guarantor or individual with liability for Mortgage amounts,

2. A summary of any oral communications with the Borrower regarding the Delinquency

3. A copy of written correspondence about the Delinquency between the Servicer and the Borrower
4. A written analysis of any Reserves or any other form of Custodial Account, with current balances (The amounts paid for the most recent annual taxes and annual insurance premiums and the next required payment dates must also be provided.)
5. The Borrower's payment history for the Mortgage
6. A list of any Freddie Mac loans related to the Borrower or Affiliates of the Borrower that are 30 days Delinquent or have been 30 days Delinquent in the last 12 months
7. A general financial analysis of the current Property operations
8. A Servicer's certificate regarding OFAC/FHFA SCP compliance regarding the Borrower and any Borrower Principals or Non-U.S. Equity Holders (See Section 41.1(d) and 41SBL.1(d) for a description of the certificate.)

44.2 Initiation of foreclosure

a. Demand and acceleration (09/28/12)

Freddie Mac or Freddie Mac retained counsel will commence the foreclosure action, including sending the demand and acceleration letters to the Borrower, unless Freddie Mac provides other instructions to the Servicer.

b. Foreclosure attorney or trustee (09/28/12)

To ensure prompt and efficient completion of the foreclosure proceedings, Freddie Mac expects the Servicer to work closely with the foreclosure attorney, trustee or substitute trustee selected by Freddie Mac. Such services may include the following:

1. Having appropriate officers of the Servicer appear as witnesses in discovery or court proceedings
2. Providing reports and documentation to be used in the receivership or foreclosure proceeding
3. Executing pleadings and affidavits

44.3 Servicing during foreclosure

a. Appointment of receiver and/or managing agent (08/30/13)

Freddie Mac reserves the right to seek the appointment of a receiver and/or managing agent for the Property. The fee for the receiver and/or managing agent will ordinarily be paid from income generated from the Property. If the income generated from the Property is not sufficient to pay all normal operating expenses (including the fee for the services of the receiver and/or managing agent), the Servicer must, when requested by Freddie Mac, advance funds as and when necessary to pay that deficit. Freddie Mac will reimburse advances made by the Servicer in accordance with Section 45.3(b). However, for Delegated

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TAH Mortgages, any such advances are governed by the Seller/Servicer's Delegated TAH Master Agreement.

b. Third party report reimbursement (08/30/13)

With the approval of Freddie Mac, the Servicer will advance the cost of any Appraisal, environmental assessment or property condition report. Except for Delegated TAH Mortgages, Freddie Mac will reimburse the Servicer in accordance with Section 45.3(b).

c. Establishment of bid amount (06/30/15)

The Servicer must provide the UPB, arrearages, advances, default interest and/or late charges, Yield Maintenance or other breakage fee, Form 104, Loan and Real Estate Owned (REO) Expenses and Income, and all other amounts necessary to compute the total Mortgage debt to Freddie Mac upon request. Freddie Mac will determine the amount of the bid at a foreclosure sale and the bid will be entered by Freddie Mac's employee, its representative, or the attorney handling the foreclosure sale.

44.4 Action other than foreclosure (10/07/08)

It is the Servicer's responsibility to act in the most timely, efficient and responsible manner to protect the interests of Freddie Mac or, in the case of a participation, the respective interests of Freddie Mac and any other participant. The Servicer must exercise diligence to prevent any losses.

44.5 Loan modification, repayment plans (05/01/14)

The Servicer must refer all written requests for any type of loan modification or repayment plan to Multifamily Asset Management, Borrower Transactions. Freddie Mac will advise the Servicer who will manage the request. Freddie Mac will negotiate the modification/repayment plan, have all necessary documents prepared, and notify the Servicer of any changes to the Mortgage.

During the negotiation period, the Servicer may be asked to provide Freddie Mac with such items as arrearage calculations, property inspection, original Loan Documents and recommendations for action. The Servicer must assist Freddie Mac when necessary to obtain title reports, title endorsements, Uniform Commercial Code (UCC) searches and other recorded documents in connection with any modification/repayment negotiation. Freddie Mac may request the Servicer to complete a property inspection.

44.6 Adverse matters/non-monetary defaults

a. Notification (12/14/17)

The Servicer must immediately notify Multifamily Asset Management, Borrower Transactions by email at MF_Borrower_Transaction@freddiemac.com upon discovery or notification of any of the following conditions with respect to a Mortgage:

1. Any lien that attains or may attain priority over the Mortgage lien

2. Any subordinate lien that is placed on the Property (The Servicer must also follow the procedures in Section 41.9 regarding a subordinate lien.)
3. Any state insolvency or federal bankruptcy proceeding in which a Borrower or guarantor is seeking relief or in which an involuntary petition has been filed against a Borrower or guarantor
4. Deterioration, waste or lack of repair of the Property; catastrophic events to the Property; or the presence of an environmental problem or Life Safety Hazard on the Property
5. A serious building code violation or similar citation involving the Property
6. Vacancy or collection loss that impairs the value of the Property
7. Any event that adversely affects the credit or managerial ability of the Borrower
8. Litigation involving the Property that may adversely affect its value or the lien of the Mortgage
9. Termination or reduction of insurance coverage
10. Any evidence that the Borrower has transferred ownership or management of the Property in the absence of Borrower notification of an impending transfer (The Servicer must also follow the procedures in Section 41.9 regarding an unauthorized transfer of the Property or an interest in a Borrower entity.)
11. Any other default under the terms of the Loan Documents
12. Any other situation that may have an adverse impact on the Mortgage or the Property

If any of these conditions arise, the Servicer must maintain complete and accurate records of the circumstances, including any evidence necessary to substantiate enforcement of any action based on the defaults under the Loan Documents described above or other action against the Borrower. When notifying Freddie Mac of any of the adverse matters listed in this section, the Servicer must also advise Freddie Mac in writing of relevant surrounding facts.

The Servicer must carry out Freddie Mac's instructions and work closely with Freddie Mac in handling adverse matters. When delaying protective action might result in impairment of the Property or the lien of the Mortgage, the Servicer must immediately notify Multifamily Asset Management, Borrower Transactions of the situation.

Freddie Mac will advise the Servicer who will manage the adverse matter and provide instruction for any protective action if needed. Multifamily Asset Management, Borrower Transactions will require a default analysis by the Servicer in accordance with Section 44.1(c).

b. Legal representation (10/07/08)

Counsel selected by Freddie Mac will conduct the legal representation of Freddie Mac in connection with any actions in response to adverse matters/non-monetary defaults. Freddie Mac will supervise the conduct of litigation and other actions unless Freddie Mac directs the

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Servicer to supervise these activities. If the Servicer retains its own legal counsel in connection with the matters described in this section, the fees and expenses of such counsel will be the obligation of the Servicer and not of Freddie Mac.

c. Reimbursement of costs (04/30/19)

The Servicer must request in writing and receive approval from Freddie Mac before incurring any expense reimbursable under this section. The Servicer must attach to its approval request a copy of the Reserve and suspense account balances with a description of the source and reason for any suspense account funds.

All fees and expenses discussed in this section that are approved by Freddie Mac, including the cost of the legal counsel selected by Freddie Mac, must be billed to and paid by Freddie Mac. After completion of the proceedings, the Seller or Servicer will reimburse these fees and expenses by wire transfer to Freddie Mac in proportion to the Seller's or Servicer's interest in the Mortgage, if any, unless collection from the Borrower is allowed under applicable law. The Servicer must obtain wire transfer instructions from Freddie Mac Multifamily Asset Management, Borrower Transactions. The Servicer must send the wire transfer in accordance with the instructions to the attention of *Multifamily Cash Management*. The wire transfer must reference the Property name, the Freddie Mac contact person and the Freddie Mac loan number. Other reimbursement arrangements may be made at the Servicer's request and in Freddie Mac's discretion if circumstances warrant. The reimbursement to the Servicer by Freddie Mac of any costs and expenses will not prejudice any rights Freddie Mac may have against a Seller or Servicer with respect to the sale or servicing of the Mortgage.