Understanding the National Mortgage Settlement

A Roadmap for Housing Counselors

Brought to you by

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National Consumer Law Center

- Advocates on behalf of low-income consumers

- Provide training, legal analysis, case consultation and advocacy on consumer law issues

- In-person and online training to housing counselors and attorneys

- Books and manuals

- Visit our website: www.nclc.org
National Housing Resource Center

- **Advocate** for increased and programs for non-profit housing counseling community
- **Mobilize** counseling agencies, networks, and intermediaries on housing issues
- **More than 200+ resources, policy positions, and more** for the housing counseling community: hsgcenter.com
- **Join our mailing list** by clicking or go to: http://www.hsgcenter.org/learn-more-about-nhrc/

About This Course

- **Two-part series on National Mortgage Settlement**
  - Focus on Settlement’s standards for servicing mortgage loans
- **Part one:** Settlement’s servicing standards
- **Part two:** Settlement and CFPB servicing standards
Today’s Agenda

- Overview of the National Mortgage Settlement
  - Servicing standards

- Putting the standards to work
  - Tips & tools for housing counselors

- National Mortgage Settlement Checklist

Next Week’s Session

- Servicing standards continued

- CFPB mortgage rules

- Escalating problem cases using the Checklist

- Whom to call for what
Overview of the National Mortgage Settlement
Settlement between 49 state attorneys general, the federal government and five leading servicers

- Addresses abuses in servicing of loans in foreclosure
- Investigation into robo-signed affidavits bootstrapped other servicing issues

**Official website:**
[www.nationalmortgagesettlement.com](http://www.nationalmortgagesettlement.com)

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**The Investigators**

- **State Attorneys General**
- **Dept. of Housing and Urban Development (HUD)**
- **Department of Justice**
  - U.S. Trustee Program
- **U.S. Attorney’s Office**
  - Eastern District of New York
  - District of Colorado
National Mortgage Settlement

- $20 billion in financial assistance to borrowers
  - Modification and refinance programs
  - Direct payments to foreclosed upon borrowers

- $5 billion in cash payments to state attorneys general and the federal government

- Mortgage servicing reforms

Where did the money go?

$25 Billion

- $20 Billion Direct benefits to consumers
  - $17 Billion Various Anti-Foreclosure Initiatives
    - Direct borrower relief through principal reduction, short sales, anti-blight measures, borrower transition efforts, etc.
  - $3 Billion Refinance Underwater Borrowers

- $4.25 Billion State Government

- $750 Million Federal Government

- $1.5 Billion Payments to Borrowers
  - For mortgage servicing abuse

- $2.75 Billion Payments to States
  - Include state foreclosure prevention efforts such as help lines, mediation, legal aid, etc.
Who are the five servicers?

Poll Question No. 1

Who was a top five mortgage servicer at the end of 2012?

A. Chase  
B. Wells Fargo  
C. Citi  
D. All of the above
What was negotiated?

**Broad release of the governments’ legal claims related to 5 servicers’ conduct related to**
- Mortgage loan servicing
- Foreclosure preparation
- Mortgage loan origination

**The government did not release legal claims related to**
- Criminal conduct
- MERS
- Securitization claims
- Fair lending claims
- Claims of third parties (e.g. borrowers)

**Servicers cannot require borrowers to waive or release any legal claims**

**Servicers will get credit for providing consumer assistance under the terms of the Settlement**
Assistance to Homeowners

Various forms of financial assistance to current homeowners

- First and second lien modification programs
  - Borrowers who are underwater

- Refinance program for borrowers who are current but underwater
  - The servicer will notify eligible borrowers

Other Forms of Assistance

- Forbearance for unemployed borrowers
- Protections for military service-members
- Waive deficiency balances
- Anti-blight initiatives
- Short sales
Total Consumer Relief 4Q $23.9B

- Completed First Lien Modification Forgiveness $3.492B
- Completed Forgiveness of pre-3/1/12 Forebearance $364M
- Completed Second Lien Modifications and Extinguishments $8.761B
- Short Sales Completed $6.404B
- Total Other Program Activity $624M
- Refinance Consumer Relief $768M
- Active Trial in Process $3.468B

Money to Former Homeowners

- **Cash payment to former homeowners**
  - Lost homes between January 1, 2008 and December 31, 2011
  - Minimum payment will be $840

- **Eligible former homeowners should have received a letter**

- **Deadline to submit claim form was January 18, 2013**
Enforcement of the Settlement

- Series of metrics to measure servicers’ compliance with terms of Settlement
- Monitoring committee will report back to the state attorneys general and the court
- Pattern of significant, uncured violations of the Settlement
Enforcement of the Settlement

- Banks have three years to meet the requirements
- Any contract for sale or transfer of loan must obligate the new servicer to accept and continue processing the loan modification

Great for borrowers who have started a loan mod application or agreement before servicing is transferred!

What is OMSO?

- **Office of Mortgage Settlement Oversight**
  - Created under the terms of the Settlement
  - Monitor servicers’ compliance with the servicing standards and other terms of the settlement

- **Monitor Joe Smith**
  - Former Commissioner of Banks from North Carolina

Image Source: [www.mortgageoversight.com](http://www.mortgageoversight.com)
OMSO Website

- Learn more at: www.mortgageoversight.com

More About OMSO

- Consumers, counselors and other professionals can report problems with servicers on OMSO’s website

- Help Monitor identify servicers’ violation of the agreement

- Will not mediate disputes between counselors and servicers
QUESTIONS

The Servicing Standards
Servicing Standards

- Detailed guidelines regarding almost every aspect of servicing delinquent loans
- Guidelines related to general servicing functions
- 304 servicing standards
- Servicers required to be in full compliance as of October 2, 2012

Servicing Standards

Standards apply to servicing all loans
- Including portfolio loans
- Including loans owned or securitized by Fannie Mae or Freddie Mac
Benefits for Housing Counselors

- **Streamlines** the workout process
- Established **clear guidelines**
- Requires **disclosure** of more information regarding modifications
- **Limits of fees and charges**
- Places **limits on dual tracking**
- Requires **dedicated staff**
- Creates loan modification **timelines**

Having your say: National Mortgage Settlement Checklist
### Having your say: Checklist

- Document violations of servicing standards
- Streamline the reporting of violations of the servicing standards
- Escalate problem cases

### Sally Homeowner

- Current
- 60 days behind
- 90 days behind
Servicing Loans That Are Current

- Perform certain general tasks on all loans
- Send a monthly statement
- Monthly statement not required if borrower is provided with a coupon book for a fixed-rate mortgage

Servicing Loans That Are Current

New statement helps counselors respond to borrowers’ questions about:
- Payment allocations
- Payment changes
- Fees
- Escrow status
Servicing Loans That Are Current

- Accept and apply payments promptly
- Credit payment within two business days of receiving the payment
- Accept partial payments that are within $50 of the scheduled payment
- Payments made from suspense account must:
  - Include principal, interest and escrow (if applicable) first before taking money for servicing-related fees

Restrictions on Fees and Charges

- Fees must be bona fide and reasonable
- Fees must be disclosed in statements
- List of common fees posted on website
- Fee schedule provided to borrowers on request
Restrictions on Fees and Charges

<table>
<thead>
<tr>
<th>FEE DESCRIPTION</th>
<th>FEE AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appraisal</td>
<td>$310 to $1,500.00</td>
</tr>
<tr>
<td>Assumption</td>
<td>1% of the LTP or $350, whichever is greater.</td>
</tr>
<tr>
<td>Bankruptcy Fees and Costs</td>
<td>$0.00 to $5,000.00</td>
</tr>
<tr>
<td>BPO</td>
<td>$0.00 to $125.00</td>
</tr>
<tr>
<td>Foreclosure Fees and Costs</td>
<td>$0.00 to $5,000.00</td>
</tr>
<tr>
<td>Late Charge</td>
<td>As stated in the loan documents, subject to state law requirements.</td>
</tr>
<tr>
<td>Litigation Fees and Costs</td>
<td>Varies depending on the circumstances and is not always charged to the customer’s loan, but is $0 to $50,000.</td>
</tr>
<tr>
<td>Non Sufficient Funds Fee</td>
<td>$0.00 to $25.00, subject to state law requirements.</td>
</tr>
<tr>
<td>Partial Release</td>
<td>Loan balance $300,000 or less = 0.00, loan balance greater than $300,000 less than $750,000 = $0.00 to $300,000, loan balance greater than $750,000 = $1,600.00</td>
</tr>
</tbody>
</table>

Sally Homeowner

- **Current**
- 60 days behind
- 90 days behind
Communicate with Borrower

- Reach out to the borrower early and often
  - Provide information on housing counseling
- Provide a single-point of contact after the borrower requests assistance
- Must communicate with housing counselor when borrower provides written authorization

Single Point of Contact

- **Knowledgeable** about borrower’s situation
- **Discuss** all options
- **Handles** documents
- **Remain available** until borrower brings loan current or exhausts all options
Single Point of Contact

- Transfer calls to supervisor when asked to do so
- Have access to those with the authority to stop a foreclosure sale

Poll Question No. 2

Under the Settlement servicers cannot discourage borrowers from working with nonprofit housing counselors.

- True
- False
Poll Question No. 2

Under the Settlement servicers cannot discourage borrowers from working with nonprofit housing counselors.

- True
- False

Online Loan Portals
Online Loan Portals

Loan portals should allow **BORROWERS** to:

- Find information and eligibility factors for proprietary loan modifications and other programs
- Submit documents electronically
- Obtain an electronic receipt for documents submitted
- Check the status of their first lien loan modification

Online Loan Portals

Loan portals should allow **SERVICERS** to:

- Communicate with borrowers to satisfy written communication requirements
- Update the status of pending loan modifications every 10 business days
Citi Website

- Information and eligibility factors for proprietary loan modifications and other programs

1. Click “Homeowner Support”
2. Click “National Mortgage Settlement”
3. Scroll down for more info

Sally Homeowner

60 days behind ➔ 90 days behind ➔ 120 days behind ➔ Submits application
Before referring Sally to Foreclosure

- **Servicer must**
  - Notify Sally of every available workout option
  - Assign an SPOC if Sally asks for assistance
  - Evaluate Sally for a loan modification if she submits a complete application
  - Send a 14-day pre-foreclosure notice

- **Wait 120 days**

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14-Day Pre-foreclosure Notice

- **Pre-foreclosure referral notice**
  - Facts supporting servicer’s right to foreclosure
  - Must state that borrower has a right to request
    - A copy of note with all endorsements
    - Payment history
    - Name of the investor that holds loan
    - Account summary

- **Sent at least 14 days before referral to attorney**
Wells Fargo: Submitting Documents

Home Mortgage | Home

Request Mortgage Help Online
Keeping up with mortgage payments can be difficult, especially with circumstances like job loss, decreasing home values, or unexpected expenses. You can now get help by submitting documents online.

Online help request process:
Step 1: Verify your account
- Last four digits of your Social Security number
- Loan number
- Property zip code

Step 2: Tell us about your financial situation
- Explain the cause of your payment difficulties
- Provide your anticipated monthly income

Step 3: Review your options
- Review your information, your options, and next steps

Start your request
Clicking Request Help Now will take you to the homeowner assistance website.

Wells Fargo: Check Status

Check Your Loan Modification Status
If you are working with us on a loan modification, you can track your status online throughout the process.

Check your status online
Step 1: Verify your account
To access the homeowner assistance website, you’ll need to verify the following:
- Last four digits of your Social Security number
- Loan number
- Property zip code

Step 2: Select your loan modification status
After verifying your account, you’ll be able to see where your loan is in the modification process and find out what you’ll need to do next.

Step 3: Contact us
If you need help or have questions,
- Submit documents electronically
Now you can send required documents online through the homeowner assistance website.

Check your status
Clicking Check Status Now will take you away from the Wells Fargo website to the homeowner assistance website.
Rules for Loan Modifications

Evaluate for very available loan modification option
- In-house (proprietary) modifications
- HAMP, FHA, VA

Make public information on process and eligibility standards

Offer a loan modification if Net Present Value (NPV) positive
HAMP Requirements

- Certain Homeowners should be given another opportunity to apply for HAMP
  - Enrolled under original HAMP guidelines
  - Made all required trial period plan payments but were denied a permanent modification
  - Re-apply for HAMP or in-house modification

- Promptly convert trial period plans to permanent modifications

If the Loan Modification is Denied

- Before denying a loan modification application
  - 2nd automatic internal review
  - Only denial of requests to modify first-lien mortgages

- Send denial letter/ notice

- Allow homeowner to appeal the loan modification denial
Denial Notice

- Send letter within 10 days of decision with reasons for denial
  - If NPV calculation causes denial, notice must include the monthly gross income and property value used in the calculation

- Give borrowers 30 days to request an appeal of the loan modification denial

Appeal Process

- Homeowner has 30 days to provide information or documents to servicer

- If homeowner disagrees with the property value used by the servicer, the homeowner can request that a full appraisal be conducted
  - At the homeowner’s expense

- Servicer should make a decision within 30 days after receiving information from the homeowner
  - If appeal is denied – must send a letter
Loan Modification Application TIMELINE

- **Servicer receives application**
- **Notify borrower of missing documents**
  - Within 5 business days
- **Borrower may submit missing documents**
  - Within 30 days
- **Review, approve & send trial period plan**
  - Within 30 days
- **Acknowledge receipt of application**
  - Within 3 business days

How Long does the Borrower have to Respond to the Offer?

- **Borrower must sign & return modification offer**
  - Within 14 days
- **Servicer gives borrower copy of signed loan modification agreement**
  - Within 45 days
**Counselor Handbook: Loan Modification Timeline**

<table>
<thead>
<tr>
<th>Event</th>
<th>Days</th>
<th>What is required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Servicer receives an application for a modification of a first lien mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Written acknowledgement of receipt of loan application</td>
<td>Within 3 business days</td>
<td>Written acknowledgement should describe loan modification process and identify deadlines and expiration dates for submission of documents</td>
</tr>
<tr>
<td>Notify borrower of any missing info, documents, or other deficiency in the initial submission of info</td>
<td>Within 5 business days</td>
<td>Borrower should be given 30 days from the date of servicer’s notification to submit the missing documents or info</td>
</tr>
<tr>
<td>Review the modification application, approve and send a trial period plan</td>
<td>Within 30 days</td>
<td>Within 30 days of receiving a complete loan modification application unless “compelling circumstances beyond servicers control.”</td>
</tr>
</tbody>
</table>

**TIMELINE to Appeal Denial of Loan Modification Request**

1. **Modification denied**
   - 30 days to review loan docs
   - Servicer reviews loan docs

2. **Appeal denied**
   - Servicer must wrap appeal in 10 days
Under the Settlement’s Servicing Standards, how many days does a borrower have to appeal a denial of a loan modification request?

A. 14 days from date of denial letter
B. 15 days from date of denial letter
C. 30 days from date of denial letter
Using the Checklist To Help Sally

NMS Housing Counselor Checklist

- **Streamlined** reporting tool
- **Escalation tool** for resolving client complaints
NMS Checklist Homepage

National Mortgage Settlement Housing Counselor Checklist

About the National Mortgage Settlement

The attorneys general of 48 states and the District of Columbia, the federal government and the banks and mortgage servicers (Bank of America, Citi, JP Morgan Chase, Wells Fargo and Ally) reached an agreement on February 9, 2012, to provide loan modifications and other relief to eligible homeowners. Funding for state and federal governments, and new rules for the servicing of mortgage loans (these servicing standards require:

- Regular communication with borrowers;
- A single point of contact;
- Adequate staffing levels and training; and
- Appropriate standards for executing documents in foreclosure cases.

The standards also place restrictions on proceeding with foreclosure when a loan modification application is pending.

About this Checklist

This Checklist incorporates some of the servicing standards announced under the National Mortgage Settlement. This Checklist is designed to be used by housing counselors to document and report violations of the servicing standards to appropriate agencies.

The Office of Mortgage Settlement Oversight (OMSO) was created under the terms of the settlement to monitor compliance with the servicing standards and other terms of the settlement. Information and data submitted through the Checklist will be aggregated and reported to OMSO. Reporting violations of the servicing standards to OMSO, whether through the Checklist or in any other manner, is required to provide the agency with single points of contact where those standards have been violated.

Only use one or more tick boxes to indicate which category(ies) is/are applicable to your case.

- A homeowner
- A housing counselor
- An attorney
- A borrower
- Other

NMS Loan Checklist

Loan Checklist:

- Pre-communication with the borrower before referral to foreclosure attorney.
- A single point of contact (SPoC). The single point of contact must be:
  - A SPoC provided, borrower did not delay or refuse to provide a single point of contact.
  - A SPoC allowed, the single point of contact failed to:
    - Communicate the options available to the borrower or the borrower refused consideration for the options.
    - Communicate to the borrower if the borrower was knowledgeable about the borrower's situation.
    - Provide the borrower with the current status of the borrower.
    - Provide the borrower with information to the borrower.

- Validate the borrower's information.
- Default review, foreclosure process, or other actions taken against the borrower.
- HPD assessment of the loan modification valuation.
- Non-modification options available.
- HPD assessment of the loan modification valuation.
- HPD assessment of the loan modification valuation.
- Non-modification options available.
- HPD assessment of the loan modification valuation.
- Non-modification options available.
- HPD assessment of the loan modification valuation.
- Non-modification options available.
Escalation Tool

Thank you for completing the National Mortgage Settlement Housing Counselor Checklist

Checklist E-mail Receipt
Poll Question 4: CASE STUDY

Sally Homeowner submitted a complete loan modification application to the postal address given by the servicer. Sally never received confirmation of receipt, but has since received three more of the same application packages to complete. Sally tried calling the representative with no success; when she did get a call from the representative she was told no documents had been received.

Which of the following NMS servicing standards were not met?
A. Single Point of Contact (SPOC)
B. Lost documentation
C. Loan modification timeline
Poll Question 4: CASE STUDY

Sally Homeowner submitted a complete loan modification application to the postal address given by the servicer. Sally never received confirmation of receipt, but has since received three more of the same application packages to complete. Sally tried calling the representative with no success; when she did get a call from the representative she was told no documents had been received.

Which of the following NMS servicing standards were not met?

A. Single Point of Contact (SPOC)
B. Lost documentation
C. Loan modification timeline

Check all that apply
Integrating the Checklist in your Workflow

- Consult the checklist throughout the counseling process:
  - During the initial appointment
  - After submission of an application
  - Upon referral to foreclosure
  - After approval of a loan modification
  - After denial of a loan modification

QUESTIONS
Thank You For Joining Us

Save the date

Part 2
June 24th
at 3 pm

Please participate in the evaluation survey

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