Understanding the National Mortgage Settlement

A Roadmap for Housing Counselors

Presenters

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  National Consumer Law Center

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Presenters

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  Experienced Housing Counseling Manager

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  Office of the Connecticut Attorney General

- **Michael Moore**  
  Office of the Florida Attorney General

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](http://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 Join our mailing list 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

- Servicing standards
  - Dual Tracking
- CFPB mortgage rules
- Escalating problem cases using the Checklist
- Whom to call for what

Five Servicers Covered by the National Mortgage Settlement

- Ally
- JPMorgan Chase
- Wells Fargo
- Bank of America
- Citibank
The Loan Modification Application
The Loan Modification Application

- Evaluate a complete application for every available loan modification option
- Offer a loan modification if Net Present Value (NPV) positive
- Send a denial letter or offer a trial period plan
- Allow borrower to appeal if modification is denied

What is a complete application?

- Many of the Settlement’s protections only apply to homeowners who have submitted completed loan modification applications
- What is considered complete is not outlined under the Settlement
What is a complete application?

- **Acknowledge** it received the application within **3 business days**
  - Describe process & deadlines
  - Expiration dates for submitted documents
- **Let borrower know within 5 days** of receiving an application if they determine that anything is missing

Tip: Make Sure it’s Complete

- **Check servicers’ websites** for job aids
- **Keep a record** of what you submit with your application
- Submit documents **electronically**
- **Contact the servicer** after submission to confirm that it is complete
Counselor Resources

- Offer forms, job aids, training
- www.chase.com/chf/mortgage/myhomenfp
- www.mortgagehelp.citi.com
- Email: jerry.durham@bankofamerica.com

Sample Job Aid

4506-T Job Aid

All spaces with a green checkmark are mandatory fields:

1. a. Borrower's Name
1b. Borrower's Social Security Number
2a. Co-borrower or Spouse name
2b. Co-borrower or Spouse Social Security Number
3. Confirm customer's property address is accurate
4. If the customer filed prior year's tax return at an address different than the one listed on line 3, that address must be entered on line 6.
5. Home Retention Servicing Address (Typically, this information is already auto populated on the document)
6. UA
7a. must be checked
Hope Loan Port

- www.hopeloanportal.org
- Helps counselors track submitted documents

Are you a homeowner seeking mortgage assistance? Click here to find a free housing counselor in your area

Hope Loan Port

training.hopeloanportal.org

Hope Loan Port Learning Center

Counselor Portal User Manual (DRAFT VERSION)

Counselor Portal Quick Start Guide

Counselor Portal User Guide

Document Management

Case Management

User Management

My Profile

Help Line

Login

Register

Forgot Password

Contact Us

Find a Counselor

Conclusion
Poll Question No. 1

**If a modification is denied**, the borrower has a 30 day appeal period during which time they must:

A. Submit documents or information to correct errors or misunderstandings
B. Submit a new application package
C. Pay the arrearage in full to bring the loan current
D. Call their servicer and yell at them
Limits On Dual Tracking

What is dual tracking?

- Proceeding with the foreclosure process while evaluating the homeowner for a workout option
- Common servicer practice
- Settlement and CFPB Mortgage Servicing Rules place limits on practice
Typical Foreclosure Process

- Notice of default
- Notice of Sale
- Foreclosure Sale

Typical Foreclosure Process Judicial

- Filing and service of Complaint
- Hearing and date set for redemption
- Foreclosure Sale
Key Time Period: Dual Tracking

- 60 days behind
- 90 days behind
- 120 days behind

Limits On Dual Tracking

- **Before servicer refers loan to foreclosure**
  - Receives complete loan package by day 120
  - Review and make decision prior to referral

- **After servicer refers loan to foreclosure**
  - Restrictions on the process of moving toward judgment or sale if borrower submits a complete loan package
  - Stops the process while the borrower considers whether to accept or deny the loan modification offer
Before the Loan is Referred

- No referral to foreclosure while a complete or substantially complete loan modification application is under review
  - Complete application must be received no later than day 120 of delinquency

- Substantially complete loan modification application
  - Missing only hardship documentation
  - 130 days

After the Loan is Referred - The Solicitation Letter

- Sent within 5 business days after referral to foreclosure

- Gives borrower 30 days to submit a complete loan modification application

- Stops the foreclosure process
**Limits on Dual tracking**

- **Before referral to foreclosure**
  - Postpones foreclosure referral if application is received by day 120

- **Post referral to foreclosure**
  - Postpones motion for judgment/order of sale if application is received in 30 days

**More than 37 Days Before the Sale**

- Receives a **complete loan modification application**
- **Review** the application
- **No foreclosure sale**
  - Process still continues
37 – 15 Days Before the Sale

- Receives a complete loan modification application
- Expedited review of the application
- Foreclosure sale not put on hold
  - Only if homeowner offered loan modification

Less than 15 Days Before the Sale

- Receives a complete loan modification application
- Does NOT have to review the application
- Notify the homeowner as to its decision
When is it too late to stop the foreclosure sale?

37+ days prior to sale
- Review application & delay sale

37-15 days prior to sale
- Expedited review of application

Less than 15 days prior to sale
- Optional review of application

Foreclosure sale

If the Servicer Makes an Offer a Loan Modification

- Foreclosure sale or foreclosure process continues to be put on hold until homeowner:
  - Declines the offer of a loan modification
  - Deadline to respond has passed
  - Accepts the offer but does not submit first trial payment on time
  - Accepts offer but falls off the plan

- Process or sale will be back on
Poll Question No. 2

At what point is it optional for the servicer to review a new loan modification application?

- At 130 days delinquent
- 37 days before the scheduled sale date
- 15 days before the scheduled sale date
QUESTIONS

The CFPB Rules
The CFPB Mortgage Servicing Rules

- Consumer Financial Protection Bureau
- Created in the aftermath of the financial crisis
  - Dodd-Frank Wall Street Reform & Consumer Protection Act of 2010
- Make the markets for consumer financial products and services work better
- http://www.consumerfinance.gov/

The CFPB Mortgage Servicing Rules

- Applies to nearly all servicers
  - Small servicers exempt from some rules
- Effective January 10, 2014
- Not as comprehensive as the Settlement
The CFPB Mortgage Servicing Rules

- Resolving errors and complaints
- Responding to requests for information
- Billing statements and crediting of payments
- Communicating with homeowners

The CFPB Mortgage Servicing Rules

- Limits on dual tracking
- Limits on force-placed insurance
Communication with Homeowners

- **Contact** homeowner
- **Assign** a single point of contact
- **Send** a pre-foreclosure notice
- **Respond** to requests for information and/or correct errors

Respond to Requests for Information

- **Acknowledge** receipt within 5 business days
- **Respond** within 30 days
- **Request** for the identity of owner of loan
  - **Respond** within 10 business days
- Date to respond **may be extended**
- **No fee**
Respond to Requests for Information

- Receives request for information
  - Within 5 business days
- Acknowledge receipt of request
  - Within 30 days
- Respond

CFPB Limits on Dual Track

- No starting the foreclosure process unless homeowner is 120 days behind
- 90 days behind
- Initiate foreclosure
- 120 days behind
CFPB Limits on Dual Track

- Receives complete loan modification application 37 days or more before a foreclosure sale
- 30 days to evaluate

Application submitted 37+ days before sale → 30 days to review borrower’s docs → Foreclosure Sale Date
Appeal Denial of Loan Modification

- Only if application submitted 90 or more days before a sale
- Homeowner has 14 days to appeal
- Servicer has 30 days to make a decision
Escalating Problem Cases

Before You Escalate

- In-house escalation process
- Authorization form
- Copy of denial notice (if applicable)
- Timeline and notes on servicing of loan or processing of application
### Authorization Form

![Authorization Form Image]

### Whom to go to for what

<table>
<thead>
<tr>
<th>Agency or Organization</th>
<th>How can this agency help?</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Attorneys General</td>
<td>Accept complaints from consumers and some have programs to assist homeowners and counselors to mediate disputes with servicers</td>
<td>The National Association of Attorneys General (NAAG) maintains a website with link to each state attorney generals’. Go to: <a href="http://www.naag.org">www.naag.org</a></td>
</tr>
<tr>
<td>Consumer Financial Protection Bureau</td>
<td>CFPB will accept complaints regarding servicer misconduct</td>
<td>P.O. Box 4503 Iowa City, Iowa 52244 Phone: (655) 411-2372 Go to: <a href="http://www.consumerfinance.gov/complaint">www.consumerfinance.gov/complaint</a></td>
</tr>
<tr>
<td>Office of Mortgage Settlement Oversight</td>
<td>OSMO was created under the terms of the Settlement to monitor servicers’ compliance with servicing standards and other terms of the settlement</td>
<td>There is a form on OSMO’s website for advocates and professionals to report inappropriate servicer conduct. Go to: <a href="http://www.mortgageoversight.com">www.mortgageoversight.com</a></td>
</tr>
<tr>
<td>HUD</td>
<td>HUD accepts complaints regarding the servicing of FHA-insured loans</td>
<td>Oklahoma City Field Office 301 NW 6th Street, Suite 200 Oklahoma City, OK 73102 Phone: (405) 609-8509</td>
</tr>
</tbody>
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| HUD Office of Fair Housing and Equal Opportunity (FHEO) | Will process complaints regarding discrimination related to housing | Phone: 1-800-669-9777  
| Department of Treasury | For HAMP related complaints | HAMP Solution Center  
Phone: 1-866-939-4469  
Fax: 1-240-699-3883  
E-mail: escalations@hmpadmin.com |
| Fannie Mae | Loans owned or guaranteed by Fannie Mae | Phone: 1-800-738-6643  
E-mail: resource_center@fanniemae.com |
| Freddie Mac | For loans owned or guaranteed by Freddie Mac | Phone: 1-800-373-3343  
Website: [www.freddiemac.com/mymortgage](http://www.freddiemac.com/mymortgage) |

### Tips for Counselors: Escalation

- **One bite at apple**  
  - Bring up all issues related to the loan account

- **Review notice** of denial

- **Review account** summary

- **Request copy** of fee schedule

- **Use state attorneys general** or others to mediate

- **Use the Checklist**
Using the Checklist
To Help Homeowners

Case Study

Sally Homeowner sent in numerous loan modification packages, starting when she was 60 days behind. While Sally waited for a response, the servicer filed foreclosure.
Sally received her first letter from the foreclosure attorney on January 30th, although the letter was dated January 1st. The letter offered the opportunity to apply for a loan modification or other foreclosure prevention alternatives.
Sally requested and submitted the new workout package as recommended. The servicer finally confirmed receipt of the application.
The servicer’s attorney quickly filed for judgment and requested a sale date while the application was still under review.

Which of the following NMS servicing standards were not met?
A. Communication with the borrower before referral to foreclosure
B. Communication with the borrower after referral to foreclosure attorney
C. Dual track (Foreclosure proceeded while modification was under review)
Case Study

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Sally received her first letter from the foreclosure attorney on January 30th, although the letter was dated January 1st. The letter offered the opportunity to apply for a loan modification or other foreclosure prevention alternatives.

Which of the following NMS servicing standards were not met?

A. Communication with the borrower before referral to foreclosure
B. Poor communication with the borrower after referral to foreclosure attorney. Borrower did not receive a letter or other written communication within five days after referral to foreclosure that he/she is still eligible for alternatives to foreclosure and should contact the Servicer.
C. Dual track (Foreclosure proceeded while modification was under review)

Case Study

The servicer’s attorney quickly filed for judgment and requested a sale date while the application was still under review.

Which of the following NMS servicing standards were not met?

A. Communication with the borrower before referral to foreclosure
B. Communication with the borrower after referral to foreclosure attorney
C. Dual track (Foreclosure proceeded while modification was under review)

Foreclosure process moved forward after referral to foreclosure attorney. Borrower submitted a loan modification application within 30 days after receiving a letter from a foreclosure attorney and the servicer moved forward and sought a foreclosure judgment, court order of sale or foreclosure sale date while the modification was under consideration.
NMS Housing Counselor Checklist

- **Streamlined** reporting tool
- **Escalation tool** for resolving client complaints

NMS Checklist Homepage
NMS Loan Checklist

The borrower had the following problem(s) related to the servicing of the loan:
1. Poor communication with the borrower before referral to foreclosure.
2. Poor communication with the borrower after referral to foreclosure attorney.
3. Single Point of Contact (SPOC).
   - No SPOC provided; Servicer did not provide an easily-accessible and reliable single point of contact.
   - SPOC failed. The single point of contact failed to:
     - Communicate the options available or the actions the borrower must take to be considered for these options.
     - Become knowledgeable about the borrower’s situation and current status and convey this information to the Borrower.
4. Assistance in pursuing alternatives to foreclosure after a loan modification denial.
5. Borrower’s payment to mortgage servicer not accepted.
   - Servicer lost the borrower’s documents.
7. Did not contact servicer.
8. Dual Track: foreclosure proceed while modification under review.
9. Home sold while loan modification or other workout option was pending.
10. Inadequate loan modification evaluation.
11. No Modification Offer.
12. HAMP Permanent Modification
13. Loan Modification Timeline
14. Appeal of Loan Modification Denial
15. Short Sales
16. Military Personnel

Escalation Tool

Thank you for completing the National Mortgage Settlement Housing Counselor Checklist

[Form with fields for attorney general, state, city, and phone number]
Checklist E-mail Receipt

QUESTIONS
Thank You For Joining Us

Please participate in the evaluation survey

Brought to you by

NCLC | NATIONAL CONSUMER LAW CENTER

NHRC | National Housing Resource Center