

Understanding the National Mortgage Settlement

A Guide for Housing Counselors



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ABOUT THE AUTHOR

Odette Williamson is a staff attorney at the National Consumer Law Center (NCLC) whose work focuses on sustaining low-income homeownership, foreclosure prevention, and combating predatory mortgage lending. Williamson heads NCLC's Elder Rights Initiative, including the National Elder Rights Training Project which provides on-site and web-based trainings to thousands of elder advocates nationwide. Williamson assists attorneys representing low-income and elderly consumers, including analyzing mortgage loan documents. She provides oral and written testimony and comments to legislative and administrative agencies on matters affecting low-income and elderly consumers. She is co-author of NCLC's *Foreclosures and Foreclosure Prevention Counseling*.

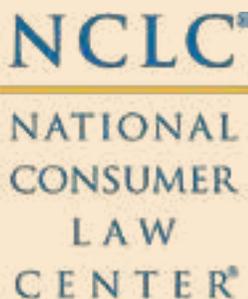
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ABOUT THE NATIONAL HOUSING RESOURCE CENTER

The National Housing Resource Center (NHRC) is dedicated to organizing nonprofit housing counseling agencies to advocate for the housing counseling industry and on behalf of housing consumers. www.hsgcenter.org.



ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, to help financially stressed families build and retain wealth, and advance economic fairness. www.nclc.org

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The National Mortgage Settlement is an agreement reached in 2012 by the state and federal governments and five of the largest mortgage loan servicing companies in the United States. Servicers covered by the agreement are required to follow new standards for the servicing of loans, provide loan modification and other forms of assistance to eligible homeowners, cash for former homeowners, and payments to state and federal governments.

Homeowners and housing counselors have access to more information and better resources in navigating the workout process. The new tools, stricter standards and clear timelines regarding the servicing of loans in default will aid counselors in the workout process. Specifically, the Settlement streamlines the workout process by:

- establishing clear guidelines on how loans in foreclosure should be processed;
- requiring servicers to inform borrowers of all workout options and evaluate borrowers for all available loan modification options before referral to foreclosure;
- requiring disclosure of the details of in-house (proprietary) loan modification programs;
- placing limits on fees and other charges;
- requiring dedicated staff, a single point of contact, to negotiate the workout process;
- requiring servicers to respond to borrowers and counselors in a timely manner;
- making improvements in statements and information disclosed to borrowers; and
- placing restrictions on proceeding with foreclosure when a loan modification application is pending.

Recognizing the vital role of housing counseling in assisting homeowners throughout the workout process, the Settlement places several key requirements on servicers. Among them, servicers are required to communicate accurate and timely information to borrowers and housing counselors regarding workout options and the loss mitigation process.¹ With written authorization from a homeowner, servicers must communicate with housing counselors regarding the

loan account. The name, address and other contact information for one or more HUD-approved counseling organization must be provided to homeowners before referral of the loan to foreclosure. In addition, servicers cannot discourage homeowners from working or communicating with legitimate non-profit housing counseling organizations.

Housing counselors have an important role to play in making sure that servicers live up to their obligations under the terms of the Settlement. Working day to day with homeowners, housing counselors are often the first to see patterns of abusive servicing. The Settlement calls for supervision and enforcement by an independent monitor, Joseph A. Smith. To help him carry out his duties and oversee the Settlement, the monitor formed the Office of Mortgage Settlement Oversight (OMSO). More information on OMSO and counselors' roles in providing critical information to OMSO regarding the Settlement is provided in this Guide.

Having Your Say: A Checklist for Housing Counselors www.nclc.org/nmschecklist



How do housing counselors recognize whether servicers are living up to their obligations under the National Mortgage Settlement?

Where do they report servicers' violations of the Settlement's servicing standards?

The National Consumer Law Center and the National Housing Resource Center have created a simple online checklist to aid counselors in recognizing common violations of the Settlement's terms. The **National Mortgage Settlement Checklist** may be used to document and report violations of the servicing standards to the Monitor overseeing the Settlement and relevant state or federal agencies, including the Consumer Financial Protection Bureau. Information submitted by counselors via the Checklist will be reported to Office of Mortgage Settlement Oversight.

What Is OMSO?

OMSO is the Office of Mortgage Settlement Oversight. OMSO was created under the terms of the Settlement to monitor servicers' compliance with the servicing standards and other terms of the Settlement. The office receives periodic reports from the five servicers regarding compliance with the Settlement. Joseph A. Smith, the Monitor, has reached out to housing counselors for information regarding servicers' conduct during the foreclosure process. OMSO encourages counselors to use the National Mortgage Checklist and will use all the information submitted by counselors via the Checklist.



Though OMSO welcomes reports of violations from housing counselors, it cannot mediate complaints regarding servicer conduct. However, reports from housing counselors will help the Monitor better understand how servicers are treating their customers. If a number of consumers are experiencing similar problems with a particular servicer, this may represent a pattern or practice in violation of the agreement. Information provided by housing counselors can make the settlement more meaningful for all homeowners because the agreement gives the Monitor additional enforcement tools when he identifies systemic violations.

This Guide is designed to educate housing counselors regarding servicing standards and other key features of the National Mortgage Settlement. It is designed to complement the online training series on the Settlement. More information regarding the Settlement and the online training course for housing counselors is available at the National Consumer Law Center's web site: www.nclc.org/nmschecklist.

Overview of the National Mortgage Settlement

The attorneys general of 49 states² and the District of Columbia, the federal government and five of the largest mortgage servicers (Bank of America, JPMorgan Chase, Wells Fargo, Citi and Ally/GMAC) reached an agreement February 9, 2012 to provide over \$25 billion in relief to distressed borrowers in the form of principal reduction loan modifications and other forms of borrower relief and direct payments to states and the federal government.

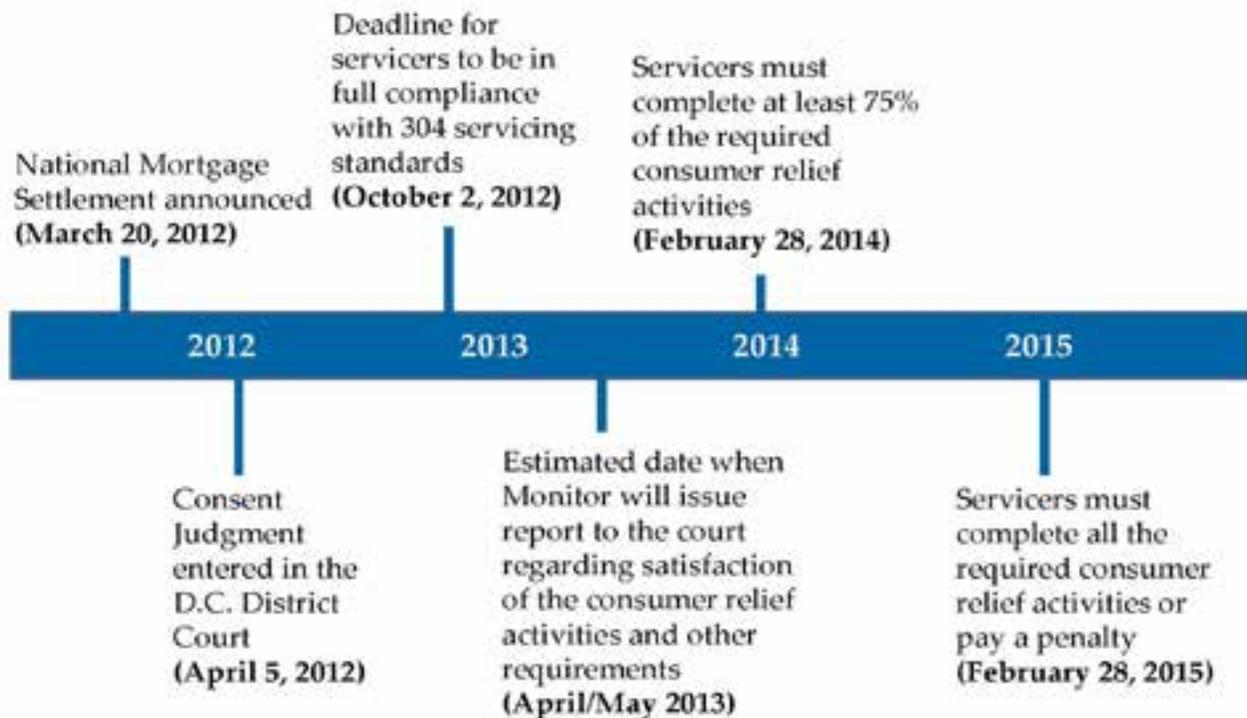
The five servicers covered by the Settlement must also follow extensive new servicing guidelines which require better communication with borrowers, a thorough evaluation of workout options before a borrower is referred to foreclosure, an adequate number of well-trained and knowledgeable employees, and timely processing of applications and requests for assistance from borrowers. Documents submitted by

servicers in foreclosure or bankruptcy process must be accurate, complete and supported by competent and reliable evidence. The servicing standards also place restrictions on proceeding with foreclosure or selling a home when a loan modification application is pending.

The agreement capped a nearly yearlong negotiation between the banks and a coalition of state and federal governments over allegations of the widespread use of "robo-signed" affidavits in foreclosure proceedings across the country. The banks acknowledged that employees signed thousands of foreclosure affidavits without reviewing whether the statements contained in those documents were valid or accurate. The government's investigation expanded to focus on other unfair and abusive practices in the area of mortgage servicing in general which resulted in not only poor customer service, but unauthorized and unnecessary foreclosures.

Servicers have three years to satisfy the terms of the Settlement. The Settlement is being monitored and enforced by an independent monitor, Joseph A. Smith, who works with a monitoring committee comprised of state attorneys general and representatives of the federal government. The Settlement calls for quarterly reporting according to metrics and outcome measures.³ Failure to meet specified targets may result in a financial penalty and enforcement through legal action. The Settlement was made effective on April 5, 2012, when consent judgments containing the

Key Dates for the National Mortgage Settlement



Source: Office of Mortgage Settlement, *Ongoing Implementation: A Report from the Monitor of the National Mortgage Settlement*, February 21, 2013

Settlement terms were approved by the U.S. District Court in Washington, D.C. Under the terms of the Settlement, the five servicers were required to be in compliance with all servicing standards as of October 2, 2012.

The attorneys general established an official web site which includes settlement related documents, descriptions of the available consumer relief, summaries of the servicing standards, and contact information for the five servicers. The official web site for the National Mortgage Settlement is www.nationalmortgageSettlement.com.

Servicing Reforms and New Standards for Servicing Loans

Servicers are required to abide by a comprehensive set of guidelines related to the servicing of mortgage loans. The 304 servicing provisions spelled out in the Settlement govern communication, workout options, documentation and other essential servicing practices.

Servicers' responsibilities related to the foreclosure and loss mitigation process are outlined in detail. Ally (formerly GMAC) filed for bankruptcy last year and its servicing assets were sold to Ocwen and Green Tree. Those servicers have agreed to comply with the servicing standards and be subject to oversight by the Monitor. The servicing standards apply to all loans serviced by each servicer.

The standards are meant to address some of the abuses unearthed in the government's investigation and improve the way borrowers are treated by their mortgage servicer. Outside of loan administration and workout activities, the Settlement's servicing standards cover a broad range of other activities. For example, servicers are required to work with state and local programs to stabilize communities hit hard by the foreclosure crisis. This includes taking steps to deter blight on foreclosed homes, and facilitating the sale of REO properties to others. The Settlement also demands that servicers protect the rights of tenants living in foreclosed properties and military service members.

Did You Know?

Under the terms of the Settlement servicers cannot:

- Discourage the borrower from working with a housing counselor;
- Recommend that the borrower default to qualify for a workout option;
- Require the borrower to waive or release legal rights as a condition for approval of a loan modification or workout option; or
- Charge an application fee for a loan modification.

A summary of the servicing standards is available at the Settlement's web site at www.nationalmortgageSettlement.com. Some highlights of interest to housing counselors are discussed below.

General Servicing Standards

Servicers are required to perform certain general tasks on all loans.

Send a monthly statement. Servicers must send monthly billing statements to borrowers containing the following account information:

- total amount due;
- how payments are allocated (including notation if any payment has been posted to a suspense account);
- unpaid principal;
- fees and charges for the relevant time period;
- current escrow balance; and
- the reasons for any payment changes (no later than twenty-one days before the new amount is due).

The billing statement requirement does not apply if the borrower is provided a coupon book for a fixed rate mortgage loan or if the borrower is in bankruptcy.

Accept and apply payments promptly. Servicers must promptly credit payments within two days of receipt. A servicer must accept partial payments that are within \$50 of the scheduled payment. If a servicer holds a partial payment in a suspense account, it must disclose that it has done so. When the amount of money in a suspense account is enough to make a full payment, the servicer has to apply the money to the

borrower's account. The servicer must pay principal, interest and escrow before applying servicer fees.

Minimize servicing-related fees. The Settlement requires that fees collected from borrowers be bona fide and reasonable. This includes fees collected upon default, and in the foreclosure and bankruptcy process, whether kept by the servicer or passed on to an outside vendor. Fees charged to the borrower's account must be disclosed in the pre-foreclosure notice sent to the borrower before the start of the foreclosure process. In addition, a list of common fees must be made available to borrowers on the servicer's web site. This fee schedule must identify and explain in plain language the purpose of the fee, the maximum amount of the fee or how the fee is calculated or determined. The fee schedule must be provided to borrowers and counselors upon request. Default-related fees are discussed in detail below.

Limit force-placed insurance. If a borrower's hazard insurance policy is cancelled or they do not have proof of insurance coverage, servicers will buy a replacement policy. This insurance often costs much more than the borrower's own policy for substantially less coverage. To address some of the problems associated with force-placed insurance (including a servicer buying insurance when cancellation was the servicer's fault) the Settlement generally requires servicers to refrain from buying force-placed insurance unless there is a reasonable basis to believe that the borrower does not have existing insurance. Servicers must send the borrower several notices describing the steps the borrower must take to avoid force-placed insurance. If the servicer receives proof of coverage it must terminate any force-placed insurance coverage within fifteen days and refund any premiums charged for periods when both policies were in effect. In addition, any force-placed insurance must be purchased for a commercially reasonable price.

If the mortgage has an escrow account, the servicer must advance payments for the borrower's existing insurance policy rather than force place insurance. For mortgage loans without an escrow account, the servicer is required to send such borrowers of first-lien loans a statement offering to advance the premium due on the existing policy if the borrower agrees to set up an escrow account and to both repay the advanced premium and to pay the future premiums.

Provide an account summary with the pre-foreclosure notice. The servicer must provide a notice to the borrower at least fourteen days before referring a case to a foreclosure attorney or trustee, in either a judicial or non-judicial foreclosure state, that describes the servicer's or holder's right to foreclose and the borrower's right to request additional information such as a payment history. This notice must also include an itemized summary in plain and simple language containing the following account information:

- total amount needed to reinstate or bring the account current;
- amount of the loan principal;
- date through which the borrower's obligation is paid;
- date of the last full payment;
- current loan interest rate;
- date on which the interest rate may next reset;
- amount of any prepayment fee or late fee;
- servicer's contact information to obtain more information; and
- contact information for counseling agencies.

Standards for Servicing Loans in Default

Once a loan is in default servicers are required to take detailed steps to ensure consumers are provided with a fair opportunity to do a workout.

Pre-Foreclosure Notice

The Settlement requires that servicers send a new notice to borrowers before they begin a foreclosure proceeding. At least fourteen days before referring a case to a foreclosure attorney or trustee, the servicer must provide the homeowner with a pre-foreclosure notice. This notice must include an itemized summary, in plain and simple language, of the account information including the amount needed to reinstate or bring the account current, the date of the last full payment, and a description of any late fees. It should also include a statement that upon written request the borrower may receive a payment history (since the borrower was last less than 60 days past due); a copy of the loan note; and the name of the investor that holds the borrower's loan. In addition, a borrower in

foreclosure or bankruptcy may request copies of any assignment of the mortgage or deed of trust required to demonstrate the legal right to foreclose on the borrower's note under state law. Information supporting the servicer's authority to foreclose should be included in the notice itself that is sent to the borrower. In addition to providing this information in the pre-foreclosure notice sent to the borrower, servicers must document their right to foreclose and plead the basis of this authority in any legal action.

The pre-foreclosure notice must also include a statement outlining the loss mitigation efforts the service has undertaken for the borrower before the referral to foreclosure. If none were taken, the servicer must state if it attempted to contact the borrower, and, if applicable, why the borrower was denied a loan modification or other loss mitigation options.

The Loss Mitigation Process

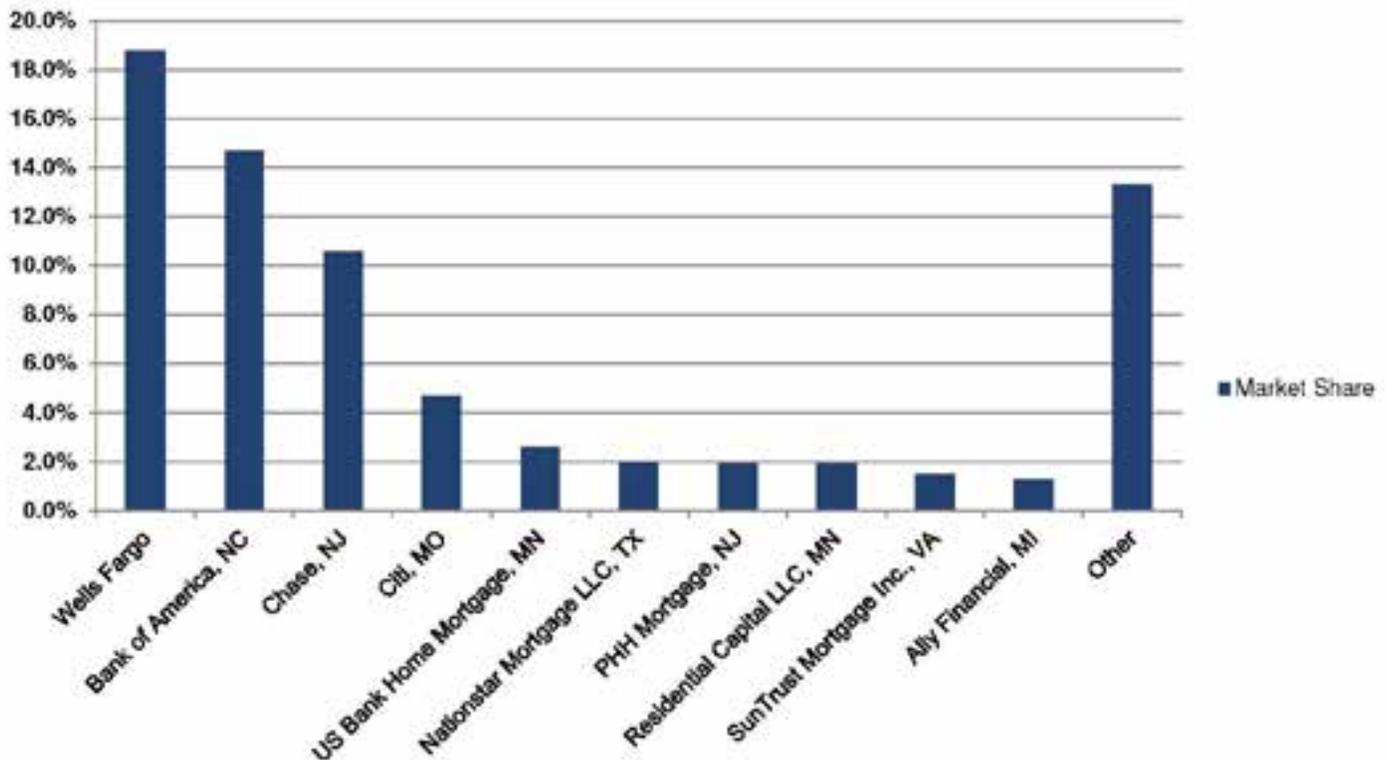
At the heart of the Settlement are detailed guidelines governing servicer behavior in the loss mitigation or workout process. These loss mitigation guidelines outline standards for borrower outreach and communication, requires servicers to inform borrowers of all workout options and evaluate borrowers for all available loan modification options before refer-

The Ally/ GMAC Bankruptcy

As of February 1, 2013, GMAC Mortgage no longer services existing mortgages. The company's loan origination and servicing businesses have been sold and will be operated under new ownership.

The transfer of loan servicing to a new servicer does not affect any term or condition of the mortgage documents, other than those related to the servicing of the loan. For loans transferred to Ocwen, there will be no immediate change to your client's account number or payment address; only to the name of the company to which your client makes a payment. In addition, for loans transferred to Ocwen, all mailing addresses and phone numbers previously used to contact GMAC Mortgage remain the same. For loans transferred to Green Tree, your client should have received a Welcome Letter with more details.

Top Mortgage Servicers (Q3 2012)



Data Source: *Inside Mortgage Finance*

ral to foreclosure, provides a time line for reviewing loan modification applications, restricts dual tracking of foreclosures, and provides rules for dealing with borrowers in bankruptcy. Servicers are required to notify borrowers of all loss mitigation options prior to referral to foreclosure.

Provide a single point of contact. The servicer must provide each borrower with a single, easily accessible and reliable employee to function as the borrower's "single point of contact." This single point of contact must become knowledgeable about the borrower's situation, communicate all of the options available to the borrower and assist the borrower in pursuing alternatives to foreclosure. An employee acting as a single point of contact is assigned after the borrower requests loss mitigation assistance and remains available to the borrower until the borrower has exhausted all loss mitigation options or brings his or her account current. Only borrowers of first-lien mortgages will be assigned a single point of contact.

Communicate regularly with borrowers during the loss mitigation process. Servicers must communicate early and regularly with delinquent borrowers. This includes sending written information regarding national and state foreclosure assistance hotlines and housing counseling resources. Outreach efforts must include a discussion of loss mitigation options. If the borrower is approved for a loan modification, collection efforts must be put on hold while the borrower is making timely payments under a trial plan or awaiting a decision on the application.

After the borrower is referred to foreclosure, within five business days, the servicer must send the borrower a written letter that states that the borrower is still eligible for alternatives to foreclosure and should contact the servicer to obtain a loss mitigation package. This letter may be sent by the attorney or trustee handling the foreclosure rather than the servicer.

Develop an online loan portal to provide borrowers and counselors with information on the loss mitigation process. Servicers must develop an online portal that allows the borrowers, at no cost, to submit documents electronically and check the status of their loan modification application. That status should be

Can a Borrower Still Sue the Servicer for Improper Conduct in Servicing the Loan?

Yes. Borrowers may still sue servicers for violations of state or federal law. In addition, servicers cannot require a borrower to waive legal rights as a condition of approval for any of the loss mitigation activities covered by the Settlement.

In reaching an agreement the state and federal governments released certain legal claims they may have had against the servicers related to the servicing of residential mortgage loans. They did, however, preserve the right of the borrower to sue the servicer.

updated every 10 days. This portal may also provide an electronic receipt for any document submitted.

Notify every borrower of available workout or loss mitigation options. Servicers are obligated to notify borrowers of available loss mitigation or workout options prior to referring borrowers to foreclosure. They must aid borrowers in the submission of and review any application. The only exceptions are for borrowers who were already evaluated or given a fair opportunity to be evaluated under HAMP or an in-house (proprietary) modification program. A “fair opportunity” is not described in the Settlement, but counselors should consider whether excessive delays, lost documents or misinformation may have impaired borrowers’ ability to access these programs. Borrowers have one opportunity to be evaluated for a workout option consistent with the terms of the Settlement unless there has been a material change in their financial circumstances.

Evaluate every borrower for a loan modification before referral to foreclosure. Before referring a loan to foreclosure, the servicers must notify the borrower of currently available loss mitigation options for which

he or she may be eligible. If the borrower submits an application, the servicer must evaluate the borrower for all available loan modification programs before referring the borrower to foreclosure. This includes evaluating the borrower for an in-house or proprietary loan modification. Further, servicers must offer a modification to the borrower if the Net Present Value (NPV) calculation is positive and other program requirements are met. Servicers are only required to evaluate complete loan modification applications.

Give certain borrowers another opportunity to apply for HAMP. Borrowers who enrolled in HAMP under the old program guidelines may be eligible to apply for another HAMP. When the HAMP program was introduced in 2009 borrowers were not required to be pre-qualified for HAMP. Rather borrowers were placed on trial period plans, and income and other information was verified later in the process. If borrowers enrolled under the original HAMP guidelines, made all required trial period plan payments, but were denied a permanent modification, they can now re-apply for HAMP or a proprietary in-house modification. The new application must be submitted using current financial information.

Promptly convert trial plans to permanent modifications under HAMP. Servicers should promptly convert trial period plans to permanent modifications for borrowers enrolled in HAMP under existing guidelines (or enrolled in a trial plan for a fully underwritten in-house modification program).

Make public information on in-house (proprietary) modifications. Servicers must publically disclose information on in-house modifications including the qualification process, eligibility factors and required documentation. Generally, documents submitted for in-house modifications are good for 90 days. Servicers cannot charge application or processing fees for in-house modifications.

Restrict dual tracking. The simultaneous evaluation of a loan modification application and processing foreclosure is restricted.

- **The loan modification application is submitted prior to referral of the loan to a foreclosure attorney.** If the borrower submits a complete loan modification application within 120 days of delinquency, the servicer is re-

Loan Modification Timeline

Event	Day	What is required
Servicer receives an application for a modification of a first lien mortgage		
Written acknowledgement of receipt of loan application	Within 3 business days	Written acknowledgement should describe loan modification process and identify deadlines and expiration dates for submission of documents.
Notify borrower of any missing information or documents or other deficiency in the initial submission of information	Within 5 business days	Borrower should be given 30 days from the date of servicer's notification to submit the missing documents or information.
Review the modification application, approve and send a trial period plan	Within 30 days	Within 30 days of receiving a complete loan modification application unless "compelling circumstances beyond servicer's control."
Give borrower a copy of the signed loan modification agreement	Within 45 days	Servicer must provide a copy of the loan modification agreement to the borrower within 45 days of receiving the signed agreement from borrower.
Denial of loan modification application	Within 10 business days	Denial letter must be sent within 10 business days of denial decision. Borrower may appeal. Note that the initial decision to deny the loan modification is subject to an automatic in-house review before the servicer sends a letter of denial to the borrower.
Appeal a denial of a loan modification	Within 30 days	Borrower has 30 days from the date of the letter to request an appeal and provide information.
Respond to the borrower's appeal	Within 30 days	Servicer must use its best efforts to issue decision 30 days after receiving information from the borrower.

stricted from referring the borrower to foreclosure while the application is pending. If the application is substantially, but not fully, complete within the 120-day timeframe, the borrower is entitled to an additional 10-day extension to complete the loan modification application. If the application is denied, the borrower has a right to an appeal and the foreclosure sale is suspended during that process.

- **Loan modification application is submitted after referral of the loan to a foreclosure attorney.** After a loan is referred to foreclosure, the servicer is required to delay legal action or sale if it receives a complete loan modification application from the borrower and must afford the borrower the time needed to respond to an offer and make timely trial plan payments if the offer is accepted. The servicer is mandated to review the loan modification application until up to 15 days prior to sale. If the borrower submits an application within 30 days of receiving the letter from the lawyer or trustee, the servicer will take steps to stop the foreclosure process. After this time, the foreclosure process itself will continue, but the servicer may take steps to postpone a scheduled sale of the home depending on when the application is submitted. If the complete loan modification application is received more than 37 days before a scheduled foreclosure sale, the sale cannot go forward.

If the servicer denies the application, as long as more than 90 days remain until a scheduled foreclosure sale date, then the borrower has

a right to appeal the decision. As noted, the servicer cannot proceed to a foreclosure sale while an appeal is pending.

Limit default-related fees and charges. As discussed, the Settlement requires that fees collected from borrowers be bona fide and reasonable. Specifically, a servicer may collect a fee from the borrower related to the loan's default only if the fee is for reasonable and appropriate services actually performed by the servicer or outside vendor. In addition to the general requirements for default-related fees, servicers must meet requirements with respect to specific services.

- **Attorney fees** charged in a foreclosure or bankruptcy proceeding must be for work actually performed and not exceed reasonable and customary fees for such work. If a foreclosure proceeding is stopped before final judgment or sale because of a loss mitigation option, reinstatement, or loan payoff, the borrower may be charged only for the work actually performed.
- **Property inspections, BPOs, and fees imposed by outside vendors** must be limited in cost and frequency. Property valuation fees, such as broker price opinions (BPO), are limited to once every twelve months, unless other valuations are requested by the borrower for a short sale or loan modification, or required by the foreclosure process. The frequency of inspections and corresponding fees, are also limited based on HUD, Fannie Mae or Freddie Mac's guidelines. The general rule applicable to all property preservation fees is that they

What Is a Complete Application?

Servicers are not required take certain actions on a loan modification application until they receive a complete application. Under the terms of the Settlement "complete" is not defined. A substantially complete loan application, on the other hand, is one that is missing only the required documentation of hardship.

Under the CFPB Mortgage servicing standards, a complete application includes all the information that a servicer requires from the borrower to evaluate the workout options available to that borrower. The servicer is required to be diligent about obtaining all the documents and information it needs from the borrower to complete the application. Counselors are advised to get information up front regarding what documents are needed and to confirm in writing that the application is indeed complete.

What about Fannie Mae & Freddie Mac Loans?

Loans owned or guaranteed by Fannie Mae or Freddie Mac are not impacted by the consumer relief part of the Settlement. Servicers are not able to write down the principal amount of these loans. Servicers must however, service the GSEs loans according to the servicing guidelines established in the Settlement.

To find out if a loan is owned or guaranteed by a GSE:
Fannie Mae: <https://www.knowyouroptions.com/loanlookup>
Freddie Mac: <https://www.freddiemac.com/corporate/?intcmp=LLT-HPimage>

should not be imposed on borrowers who have a pending loss mitigation application with the servicer or are performing under a loss mitigation program.

- **Fees charged by outside vendors must be reasonable.** The costs of the default-related services performed by outside vendors and passed on to borrowers must be reasonable and at the prevailing market rate. Servicers are prohibited from marking up the cost of these services.
- **Late fees** may not be collected when the delinquency is only attributable to late fees assessed on an earlier payment, if the payment being submitted is a full payment and is paid on or before its due date or within any grace period. Late fees cannot be collected from any regular payment or from escrow funds unless the debtor approves. Servicers are also prohibited from collecting late fees for periods during which a complete loan modification application is under consideration, a short sale offer is being evaluated, and when the borrower is making timely payments on a trial modification.

To assess the reasonableness of the default-related fees charged to individual clients' accounts counselors can obtain and refer to the fee schedules published on the five servicers' web sites. Fee schedules for the cost of common default-related fees are also published by HUD, RHS and Fannie Mae and Freddie Mac.

Inform the borrower that the servicer has abandoned the foreclosure. If the servicer decides not to pursue foreclosure, or abandon a process previously started, the servicer must notify the borrower of its decision. The borrower will be notified of the servicer's decision not to pursue the foreclosure and his or her right to stay in the home until a sale or other transfer of the property.

Make the short sale process easier and more transparent. Information on the short sale process must be made publically available. The servicer must send a written confirmation of a request for a short sale within 10 business days of receiving a request and provide an answer within 30 days. The confirmation should include basic information on the short sale process, and the servicer's requirements including whether the servicer will demand cash to pay toward the deficiency. If any required documents are missing, the servicer must send a notice within 30 days of receiving the borrower's request. If the short sale request is denied, the servicer must send a written notice with the reason for the denial. If the servicer waives its right to collect payment to offset the deficiency, the servicer cannot sell or transfer the account to a debt collector or debt buyer for collection.

Loan Modifications & Other Forms of Consumer Assistance

The five servicers are required to "work off" some of their financial obligations under the Settlement by providing various forms of financial assistance to borrowers. This consumer relief comes in the form of loan modification and refinance programs for homeowners and other forms of assistance. Both the modification and refinance programs target borrowers who are underwater, that is they owe more on their mortgage than their homes are worth. The other forms of assistance include principal forbearance for unemployed borrowers, assistance with short-sales, waiving deficiency balances, relocation assistance, and benefits for military service members who are forced to sell their homes at a loss when they change locations.

Servicers will receive a credit (full or partial) for amounts spent on the required activities. There are

also incentives for servicers to provide the benefits within the first twelve months of the Settlement, and penalties for servicers who fail to meet their obligation within three years.

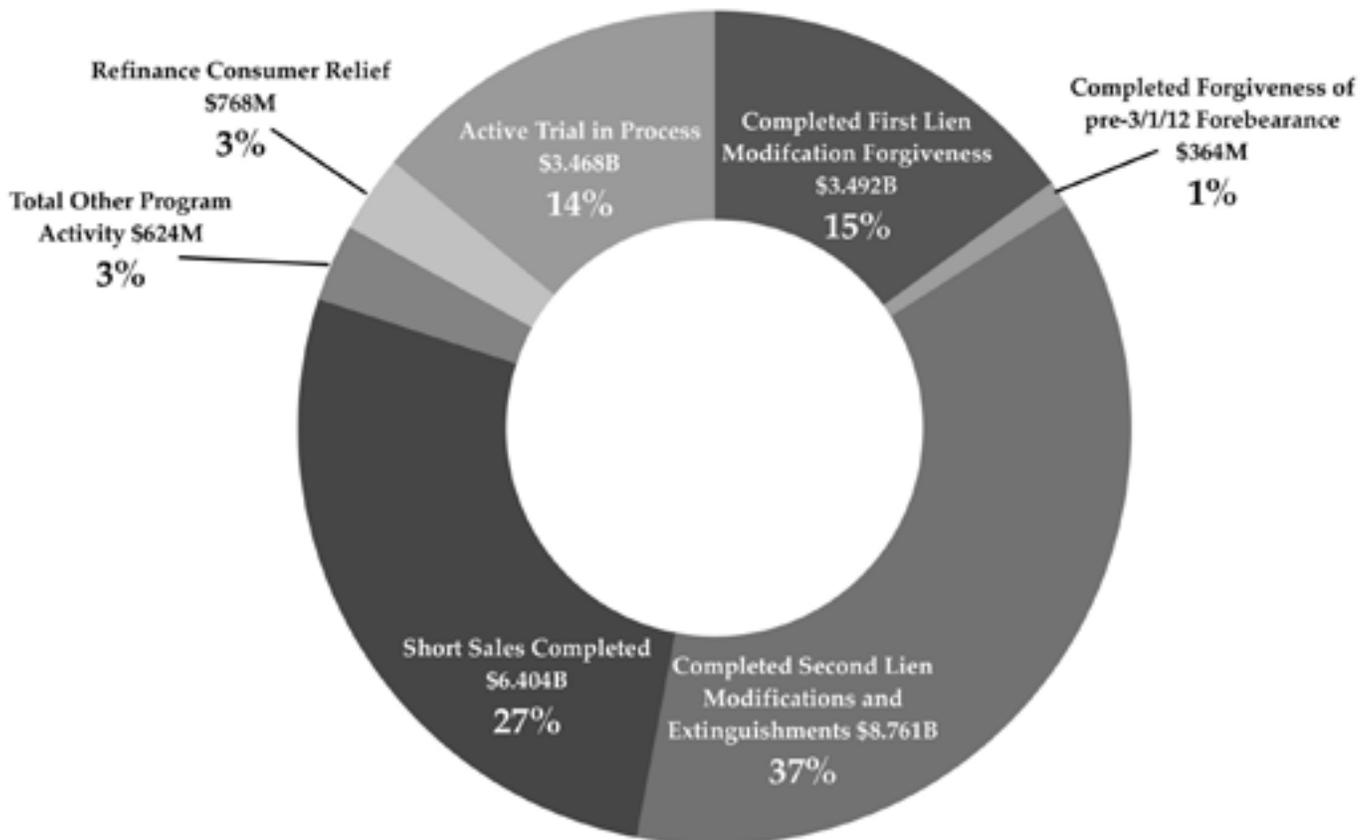
Servicers are reportedly near completion of the requirement to provide loan modification with principal reduction and short sale assistance. The Monitor has already certified that Ally/GMAC has met its obligations under the consumer relief requirements of the Settlement and is in substantial compliance with other requirements as of February 2013. Servicers will continue to perform loan modifications, offer refinance options, and provide other workout options until the Monitor certifies their obligations are satisfied under the terms of the Settlement. The Monitor issues periodic reports that includes detailed consumer relief information, maps and charts, and describes the complaints received by the Monitor from consumers and advocates.

First and Second Lien Mortgage Modification Programs

The modification program is aimed at reducing the principal amount of the loan for borrowers who, as of the date of the Settlement, are underwater and are either delinquent or at risk of defaulting on the loan. Eligibility for a loan modification depends on who owns the mortgage. Borrowers whose loans are owned by Fannie Mae or Freddie Mac, or whose loans are insured by the FHA or VA are ineligible for first-lien modifications under the Settlement.

In addition, each servicer may elect to complete first-lien modifications for certain loans and not for others. Generally, Citi, Ally/GMAC, and Wells Fargo perform principal reduction modifications on first-lien mortgages under the terms of the Settlement only for servicer-owned loans, sometimes called “portfolio loans.” Bank of America and Chase perform first-lien modifications for servicer-owned loans as well as

Total Consumer Relief (4Q 2012) \$23.9B



Data Source: Office of Mortgage Settlement Oversight, *Ongoing Implementation: A report from the Monitor of the National Mortgage Settlement* (February 21, 2013)

investor-owned loans for which they have authority to reduce principal balances.

To receive credit under the terms of the Settlement, servicers must modify first lien mortgages to result in:

- reductions of the principal and interest payments by at least ten percent and loan-to-value ratios no greater than 120%.
- The post modification payment should target a debt-to-income ratio of thirty-one percent.
- The debt-to-income requirement may be waived for mortgages that are 180 days or more delinquent so long as the principal and interest payment and loan-to-value ratio meet the specified targets.

Other eligible modifications include: write-offs to allow for refinancing under the FHA's Short Refinance Program; modifications under HAMP Tier 1 or Tier 2, state housing finance agencies Hardest Hit Fund, or any other federal program where principal is forgiven; and modifications under other proprietary or government programs which meet the terms outlined in the Settlement.

The Settlement also provides credit to servicers for modifying second-lien mortgages. The servicers are required to perform second-lien modifications in two instances under the Settlement. First, a servicer must modify a second lien mortgage when it has modified a first lien mortgage via its in-house proprietary modification process, including a modification consistent with the terms of the Settlement, and another servicer that agreed to the Settlement owns the second lien mortgage. Second, a servicer must modify a second lien mortgage when another settling servicer has performed a first-lien modification.

Bank of America delivers additional second-lien mortgage relief to homeowners through an extinguishment program. The bank sends borrowers, including those who have filed chapter 7 or chapter 13 bankruptcy, a one-page letter describing the program. A homeowner who does not want the mortgage lien extinguished must contact Bank of America within 30 days. If the homeowner does not respond, the second lien is released and the associated debt forgiven. Given the opt-out structure, participation rates

What Is the Consumer Financial Protection Bureau (CFPB)?

The Consumer Financial Protection Bureau or CFPB was created in the wake of the financial crisis by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The central mission of the CFPB is to make markets for consumer financial products and services work better for consumers, whether they are applying for mortgages, credit cards, or other financial products.

in this program are reportedly extremely high. Bank of America reports these extinguished debts to credit bureaus as paid in full.

Refinance Program

Consumers who have remained current on their home loans may be eligible for a streamlined refinance. The Settlement refinancing program is open to homeowners with servicer-owned, first-lien loans originated before January 1, 2009. The loan may be fixed, adjustable or interest-only. The loan's current interest rate must be at least 5.25%. Homeowners must be underwater and must have been current on their mortgage payments for the past 12 months. This program is not open to borrowers who have filed bankruptcy, have been in foreclosure or have modified their loans within the past 24 months.

Servicers will solicit all homeowners who meet certain eligibility criteria. Servicers have moved at different paces in deploying this program. For example, Chase has announced that it believes it has met Settlement requirements for this program, while Bank of America continues to identify and contact eligible homeowners.

Payments to Former Homeowners

Over two million borrowers who lost their homes to foreclosure between January 1, 2008 and December 31, 2011 and whose loans were serviced by one of the five servicers covered by the Settlement are eligible to receive cash payment. Eligible former homeowners should have received a letter from the National Mort-

New Tools for Resolving Account Errors and Requesting Information

Currently, if a consumer has a question about his or her mortgage or a dispute concerning the account, he or she can send a written letter to the servicer demanding information or correction of errors on the account. Under federal law the servicer must provide a timely response to any such written request for information or investigate any errors concerning the account.

The CFPB's new rules outline two separate processes: one for resolving errors on a borrower's account and the other for requesting information regarding the account. Servicers are required to meet certain procedural requirements when responding to either a written request for information or request to resolve errors related to the loan account.

Generally, servicers are required to acknowledge the request or notice of error within five business days, correct the error, and provide the borrower written notification of the correction, or conduct an investigation and provide the borrower written notification that no error occurred, within 30 to 45 business days. Within a similar time frame, servicers generally are required to acknowledge borrowers' written requests for information and either provide the information or explain why the information is not available. If the borrower requests the identity, address and other contact information for the owner or assignee of the loan, the servicer must respond within 10 business days.

gage Settlement Administrator, a private company retained by the state attorneys general to administer the payments. The deadline to submit a claim form was January 18, 2013. The minimum payment will be \$840.00 per household, although the final payment amount will depend on the total number of claims.

Other Forms of Assistance to Homeowners

In addition to the assistance outlined, servicers may also receive credit under the terms of the Settlement for providing various forms of financial and other assistance. This includes providing money, over \$1,500 to assist homeowners in transitioning from homeownership through the short sale or deed-in-lieu of foreclosure process. To facilitate the short sale process itself, servicers may receive credit for wiping out second mortgage liens on homes. Subject to certain limits, servicers are required to wipe out second mortgage liens on loans that they own if a successful short sale or deed-in-lieu of foreclosure was conducted by one of the five participating servicers on a first-lien mortgage. Credit is also available for servicers who waive their right to pursue a former homeowner for a deficiency balance after a completed foreclosure sale. Finally, servicers may receive credit if they extend funds to finance principal forbearance to help unemployed homeowners keep their homes.

The CFPB Mortgage Servicing Rules

In January 2013, the Consumer Financial Protection Bureau released new rules that will govern the servicing of mortgage loans. Similar to the servicing guidelines under the National Mortgage Settlement, the CFPB's rules are designed to provide consumers with better information regarding the servicing of their loan, new tools to address servicer error and minimum standards for servicing loans in default. The CFPB's new rules are not effective until January 10, 2014. This means that servicers will not have to comply with the CFPB's new rules until that date. Until then, however, servicers must comply with all existing servicing standards. Unlike the Settlement, which is limited to the five servicers that signed the agreement, the CFPB's rules will generally apply to all servicers. Small servicers are exempt from certain requirements.

Counselors will find that some of the CFPB's rules are similar to the servicing requirements in the Settlement. A chart comparing the CFPB's new mortgage servicing rules with the servicing standards in the National Mortgage Settlement is on page 27.

General Servicing Standards under CFPB Rules

In general, servicers are required to provide accurate and timely information to borrowers, properly evaluate workout applications in keeping with the eligibility rules established by the owner or investor, supervise service providers, and inform borrowers of the availability of written error resolution and information request procedures. The CFPB and other regulators will supervise servicers' compliance with these requirements.

Servicers are required to perform certain routine tasks and functions when servicing mortgage loans.

Send a periodic billing statement. Servicers must send a periodic (usually monthly) billing statement to borrowers containing, among other things, information on the payment currently due and previously made, fees charged, transaction activity, how past payments were applied, contact information for the servicer and housing counselor, and, where applicable, information regarding delinquencies. There are other requirements regarding the time, form and content. The billing statement requirement generally does not apply if the borrower is provided a coupon book for a fixed rate mortgage loan that contains information similar to what is required by the rule. Regardless of whether the coupon book exception applies, if the borrower is more than 45 days delinquent, the servicer must provide separate written information regarding the delinquency, including an account history for the period of delinquency.

Accept and apply payments promptly. Servicers must promptly credit payments from the borrower on the day of receipt. If a servicer receives a payment that is less than the full amount due to cover principal, interest and escrow (if required) for a given billing cycle, the partial payment may be held in a suspense account. When the amount of money in a suspense account is enough to make a full payment, the servicer has to apply the money to the borrower's account.

Provide an accurate payoff balance. Servicers must provide an accurate payoff balance to a borrower no later than seven business days after receiving a written request for the information. This rule applies to

all loans secured by the borrower's property, including Home Equity Line of Credits (HELOCs). While the written request for a payoff statement may be made by a counselor, on behalf of the borrower, the seven day response period does not begin until the servicer receives an authorization form.

Provide notice when interest rate is adjusted on an ARM. Servicers must provide a borrower whose mortgage has an adjustable rate with a notice between 210 and 240 days prior to the first payment due after the rate first adjusts. This notice may contain an estimate of the new rate and new payment. Servicers also must provide a notice between 60 and 120 days before payment at a new level is due when a rate adjustment causes the payment to change.

Limits on force-placed insurance. Servicers are prohibited from charging a borrower for force-placed insurance coverage unless the servicer has a reasonable basis to believe the borrower has failed to maintain hazard insurance. The borrower must be sent at least two notices. An initial notice must be sent to the borrower at least 45 days before charging the borrower for force-placed insurance coverage, and a second reminder notice must be sent no earlier than 30 days after the first notice and at least 15 days before charging the borrower for force-placed insurance coverage. If a borrower provides proof of hazard insurance coverage, the servicer must cancel any force-placed insurance policy and refund any premiums paid for periods in which the borrower's coverage was in place. Where the borrower has an escrow account for the payment of hazard insurance premiums, the

Filing a Complaint with the Consumer Financial Protection Bureau

Consumers and housing counselors can file a complaint regarding servicer misconduct with the CFPB. Complaints submitted to the CFPB are forwarded to the servicer for a response. The servicer must report back to the agency regarding what steps were taken or will be taken regarding the issues identified in the complaint. Consumers will receive email updates and can log into the agency's database to track the status of their complaint. Complaint data is shared with other federal and state enforcement agencies.

<http://www.consumerfinance.gov/>

servicer is prohibited from obtaining force-placed insurance where the servicer can continue the borrower's homeowner insurance by advancing funds to the borrower's escrow account to do so.

CFPB Rules for Servicing Loans in Default

Once a loan is in default servicers are required to take detailed steps to ensure consumers are provided with a fair opportunity to do a workout.

Intervene and communicate with defaulted borrowers early. Servicers must contact borrowers by the 36th day of delinquency to inform them that loss mitigation options may be available and provide written information regarding the options by the 45th day of delinquency.

Unlike the National Mortgage Settlement, there is no mandate that the servicer provide a single point of contact to assist borrowers with the loss mitigation or workout process. Rather the servicer must maintain policies and procedures reasonably designed to ensure that it will assign an employee to a delinquent borrower by the time a servicer provides the borrower with the written notice required by the early intervention requirements or no later than the 45th day of delinquency. This employee should be accessible to borrowers by phone to assist in pursuing loss mitigation options, including advising the borrowers on the status of any loss mitigation application and applicable timelines.

Follow loss mitigation timeline and procedures. Servicers are required to follow specific loss mitigation procedures for a mortgage loan secured by a borrower's principal residence. If a borrower submits an application for a loss mitigation option, the servicer is generally required to acknowledge the receipt of the application in writing within five business days and inform the borrower whether the application is complete and, if not, what information is needed to complete the application. The servicer is required to exercise reasonable diligence in obtaining documents and information to complete the application.

Evaluate the borrower for all available workout options. If a complete loss mitigation application is received more than 37 days before a foreclosure

sale, the servicer is required to evaluate the borrower, within 30 days, for all loss mitigation options for which the borrower may be eligible. The servicer must provide the borrower with a written decision, including an explanation of the reasons for denying the borrower for any loan modification option. This explanation should include any inputs used to make a NPV calculation if the inputs were the basis for the denial.

A borrower may appeal a denial of a loan modification request so long as the borrower's complete loss mitigation application is received 90 days or more before a scheduled foreclosure sale.

Restrict dual tracking. The CFPB rules restrict "dual tracking," where a servicer is simultaneously evaluating a borrower for a loan modification or other option at the same time that it prepares to foreclose on the property. Servicers are prohibited from starting the foreclosure process until a mortgage loan account is more than 120 days delinquent. Even if a borrower is more than 120 days delinquent, if a borrower submits a complete application for a loss mitigation option before a servicer has started the foreclosure process, a servicer may not start the process unless: the servicer informs the borrower that he or she is not eligible for any loss mitigation option (and any appeal has been exhausted); a borrower rejects all loss mitigation offers; or a borrower fails to comply with the terms of a loss mitigation option such as a trial modification.

If a borrower submits a complete application for a loss mitigation option after the foreclosure process has started but more than 37 days before a foreclosure sale, a servicer may not move for a foreclosure judgment or order of sale, or conduct a foreclosure sale, until one of the three conditions listed above has been satisfied.

Obtaining Assistance with Loan Modification Denials and Other Problem Cases

A denial of a loan modification and most unresolved issues or complaints may be escalated by the borrower or counselor within the servicing organization, with the owner or insurer of the loan, or with state or federal agencies. There are several steps built into the

Whom Do You Contact for What?

Agency or Organization	How can this agency help?	Contact Information
State Attorneys General	State attorneys general accept complaints from consumers and some have programs to assist homeowners and counselors to mediate disputes with servicers.	The National Association of Attorneys General (NAAG) maintains a web site with link to each state attorney generals' web site. See http://www.nationalmortgagesettlement.com/states or http://www.naag.org/
Consumer Financial Protection Bureau	CFPB will accept complaints regarding servicer misconduct.	Consumer Financial Protection Bureau P.O Box 4503 Iowa City, Iowa 52244 (855) 411-CFPB (2372) www.consumerfinance.gov/complaint
HUD	HUD accepts complaints regarding the servicing of FHA-insured loans.	National Servicing Center 301 NW 6th Street, Suite 200 Oklahoma City, OK 73102 Phone: 877- 622-8525
HUD Office of Fair Housing and Equal Opportunity (FHOO)	HUD's Office of Fair Housing and Equal Opportunity and partner organizations will process complaints regarding discrimination related to housing.	1-800-669-9777 http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination
Department of Treasury	For HAMP related complaints	HAMP Solution Center 1-866-939-4469 (phone) 1-240-699-3883 (fax) escalations@hmpadmin.com
Fannie Mae	For loans owned or guaranteed by Fannie Mae.	1-800-7FANNIE or resource_center@fanniemae.com
Freddie Mac	For loans owned or guaranteed by Freddie Mac.	1-800-FREDDIE or www.FreddieMac.com/MyMortgage
RHS (USDA)	The Rural Housing Service's Centralized Servicing Center accepts complaints regarding RHS insured loans.	Centralized Servicing Center 1-800-414-1226
VA	The Department of Veterans Affairs accepts complaints regarding VA guaranteed loans.	VA Service Center 1-877-827-3702

loan modification review and appeals process outlined by the Settlement.

Servicers must perform an automatic, independent in-house review of any denial of a request for a loan modification on a first-lien mortgage. This evaluation must be performed by an employee who was not involved in the initial decision to deny the loan modification. The only exception to this requirement is if the servicer performs an expedited review of a loan modification application submitted close to the date of a scheduled foreclosure sale.

If the decision to deny the loan modification is not overturned after the automatic in-house review, the servicer must send the borrower a written denial notice. This notice must state the reason for denial of the loan modification request as well as the facts considered in reaching the decision. The notice will include the borrower's income and property value if the modification was denied based on the result of a NPV calculation. In this case, the borrower, at his or

her expense, can request an appraisal of the property. If the investor of the loan vetoed the modification, the name of the investor must be included in the notice along with a summary of the reason for the investor's denial of the modification.

Generally, the borrower will have 30 days from the date of the letter to request an appeal and provide information to refute the servicer's determination of ineligibility. If the loan or property was ineligible for modification, or if the loan was previously modified, then the servicer is not obligated to give the borrower a thirty day appeal period. Borrowers, of course, may choose not to accept a loan modification offer or withdraw an application and forfeit the right to appeal. The servicer must use its best efforts to issue a decision within 30-days of receiving information from the borrower. If the servicer denies the appeal it should send the borrower a letter and include information on other workout options.

Other Departments in the Servicing Organization that May be Helpful

Depending on the nature of the dispute, other departments outside of the loss mitigation or home retention department within the servicing organization may be helpful. Each servicing company is organized differently. However, servicing organizations often will be divided into the following departments. Please note that not every servicer will have a department listed below or call the department by the name listed below.

The Escrow Department. The escrow department collects money to pay for hazard insurance, property taxes, mortgage insurance premiums, and other assessments, and prepares annual escrow statements. Call this department if there is a question about the escrow account. For example, if there is a deficiency (negative balance) in the escrow account, a repayment plan can be worked out with this department.

Bankruptcy Department. If the homeowner has filed for bankruptcy, this department will track and monitor the bankruptcy case and repayment plans. If the homeowner is in bankruptcy, you may be referred to this department when you call the servicer.

The Foreclosure Department. The foreclosure department monitors the foreclosure process. You can call this department to get copies of default or foreclosure notices, to check on the status of a foreclosure, and to obtain a breakdown of the foreclosure costs.

The Real Estate Owned (REO) Department. The REO department assumes all the responsibilities of ownership for the foreclosed real estate. This includes the responsibility for vacating the property by providing tenants with time to move, giving them a cash incentive, or initiating eviction procedures. You would call this department if the homeowner has decided to move out of the home. If you are helping the homeowner's tenants, this department may also be of assistance.

During the 30-day appeal period, servicers are required to suspend the foreclosure sale. If the borrower submits an appeal, the sale is further delayed until 15 days after the appeal is rejected or, if the appeal is granted, 14 days after the offer of a loan modification, borrower's failure to submit first trial period payment or default on the trial plan, whichever is later.

Escalation with State Attorneys General

All state attorneys general have an established procedure for consumers to submit complaints regarding goods and services. Some state attorneys general have established programs specifically to help homeowners or counselors mediate disputes with mortgage servicers. Under the Settlement, servicers are required to designate one or more management level employee as a primary contact for the state attorneys general or federal regulators to discuss complaints or inquiries from borrowers in default or those who have applied for loan modifications. The Settlement outlines timelines for communication regarding these requests. In addition to a timely response to state and federal regulators, any loan information provided to regulators must be provided to the borrower or counselor (with proper authorization) upon written request.

Housing Discrimination Complaints

HUD's Office of Fair Housing and Equal Opportunity (FHEO) enforces federal laws that prohibit discrimination based on race, color, national origin, religion, sex, familial status and disability. HUD partners with state and local fair housing organizations to receive complaints, conduct investigations and resolve complaints. The federal Fair Housing Act prohibits discrimination in all aspects of housing including the sale, rental or financing of homes.

Anyone can file a complaint with HUD, including individuals and community groups, via telephone, mail, or online. The resolution of the complaint is a three-step process which involves the filing of the complaint, investigation and conciliation. Complaints are initially reviewed by HUD to determine if the actions involved may violate the Fair Housing Act.

If the complaint involves a possible violation of the Act, HUD may refer the complaint to a local partner agency for further action.

If HUD accepts the complaint for investigation, the agency will send notice to the alleged violator that a fair housing complaint has been filed against him or her along with a copy of the complaint. As part of the investigation, HUD will interview the person who filed the complaint, the alleged violator, and witnesses. The investigator will collect relevant documents and conduct onsite visits, if appropriate.

HUD will attempt to bring the parties together for conciliation. Conciliation is voluntary process to get both parties to agree to a resolution. If the parties sign a conciliation agreement, HUD will end its investigation and close the case.

If, after a thorough investigation, HUD finds no reasonable cause to believe that housing discrimination has occurred or is about to occur, HUD will issue a determination of "no reasonable cause" and close the case. If HUD finds reasonable cause to believe that discrimination occurred, and no conciliation has been reached, the case may be heard in an administrative proceeding or be taken to federal district court. Either way, there is no cost to the person who filed the complaint.

Tips for Counselors

Denial of loan modifications and other issues may be escalated in-house with the servicer, the owner or insurer of the loan, state attorneys general or other agencies. A wide range of issues may be challenged including dual tracking, excessive fees and charges, and improper denial of a workout option. To determine the path of escalation, however, it is important to know the type of mortgage the borrower has and the identity of the investor, owner or insurer. The five servicers covered by the Settlement must abide by all the guidelines outlined in this Guide. In addition, investors or insurers such as the Fannie Mae, Freddie Mac and HUD may have other detailed guidelines, and, if prodded, may intervene. Following are general suggestions regarding escalating a loan modification denial or other servicing related issues.

Counselors should first attempt to escalate the complaint in-house with the servicer by speaking to a

manager or supervisor or other person with authority to resolve the complaint. For denial of a loan modification request, use the process outlined by the Settlement for servicers covered by the agreement.

- Servicers are generally not required to consider “substantially similar” escalation requests on the same loan. In effect, this means the borrower may have only one bite at the escalation apple, so it’s important to address all the problems with a modification or loan file at once, rather than piecemeal.
- When escalating outside the servicing organization, be sure to follow all technical requirements, especially with respect to third party contact authorization forms.
- Use the new tools created by the Settlement when escalating with servicers covered by the agreement. Review the notice of denial and challenge the errors that lead to the denial of the modification. Excessive fees and charges may prevent homeowners from bringing a loan current. Request a copy of the fee schedule and append it to any request to revise an improper fee.
- Although servicers are not required to suspend foreclosure sales for escalation requests received less than seven days before the scheduled sale (less than 15 days under the Settlement), it is still worthwhile to attempt to escalate. Servicers, at their discretion, may respond by postponing the sale date.
- It can often be helpful to reach out to a particular person (or at least direct inquiries to that person’s attention), rather than contacting the main number or email address. Check with other counselors who regularly handle cases with a particular servicer to get advice and contact information for particular staff members. For borrowers with first-lien mortgages, the five servicers covered by the Settlement are required to provide a single point of contact until all loss mitigation options have been exhausted.

The National Mortgage Settlement Checklist: An Escalation Tool You Can Use

www.nclc.org/nmschecklist

Escalating a case often means communicating with one or more organizations regarding the problems or concerns of an individual client.

You may be asked to state or outline the issues in writing several times. You may be asked to complete one or more complaint forms.

The Checklist allows you to streamline the reporting process by providing you with a summary of your concerns regarding the servicing of your client’s loan. After you submit information to the Checklist you will receive a summary, via email, with all the information you submitted to the Checklist. This summary can be printed and attached to any compliant forms submitted to a state or federal agency. It can also be submitted to your client’s loan file so you have a record of servicing problems.

The National Mortgage Settlement Checklist will also provide you with a link to your state’s attorney general, the Consumer Financial Protection Bureau and HUD.



ENDNOTES

1. In this guide the word or phrase “workout” and “loss mitigation” are used interchangeably.
2. Although Oklahoma did not join the Settlement, borrowers in all states will benefit from the servicing reforms put in place by the Settlement.
3. The Monitor provides regular reports on servicers’ compliance with the Settlements’ servicing standards and consumer relief provisions. The reports are available on OMSO’s web site at <https://www.mortgageoversight.com>.

Contact Information for the Five Servicers Covered by the National Mortgage Settlement

Servicer	Telephone	Web site
Wells Fargo	800-678-7986	https://www.wellsfargo.com/homeassist/
JP Morgan Chase	866-550-5705	https://www.chase.com/chf/mortgage/keeping-your-home
Citi	866-272-4749	https://www.citimortgage.com/Mortgage/displayHome-OwnerAssistance.do?page=overview
Bank of America	800-669-6607	http://homeloanhelp.bankofamerica.com/en/index.html?cm_sp=CRE-Mortgage-Refi-_-Home%20Loan%20Assistance%20Q3-_-MR16000S_marketing%20strip_%20ooo-123_hp_lahUmbrella-o
Ally/ GMAC		
Green Tree Servicing	800-643-0202	https://www.gtservicing.com/welcome/
Ocwen	800-766-4622	https://ocwen.mortgagebanksite.com/logon/index.htm

National Mortgage Settlement Checklist

(A joint project of the National Consumer Law Center and the National Housing Resource Center.)



National Mortgage Settlement Housing Counselor Checklist

About the National Mortgage Settlement

The attorneys general of 49 states and the District of Columbia, the federal government and five banks and mortgage servicers (Bank of America, Citi, JPMorgan Chase, Wells Fargo and Ally/ GMAC) reached an agreement on February 9, 2012, to provide loan modification and other relief to eligible homeowners, funding for state and federal governments, and new guidelines for the servicing of mortgage loans. These servicing standards require:

- better 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. The 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 this Checklist will be aggregated and reported to OMSO.** Reporting violations of the servicing standards to OMSO, whether through this Checklist or as an individual complaint, **is essential** to provide the agency with a legal basis to challenge servicers' noncompliance with the terms of the settlement.

After you have completed and submitted this Checklist, you can then submit the information as an individual complaint to the state Attorney General, to the Consumer Financial Protection Bureau, to the Office of Mortgage Settlement Oversight, and to the U.S. Department of Housing and Urban Development.

(* = Required)

I am (check one category) *

- a housing counselor
- an attorney
- a homeowner
- other

Loan Checklist:

INSTRUCTION: Please click on one or more of the main categories below which best describes your client's problem. Note that when you click on the category the standard or requirements will be displayed in more detail.

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 failure. 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.
 - assist the borrower in pursuing alternatives to foreclosure after a loan modification denial.
4. Borrower's payment to mortgage servicer not accepted
5. Lost documentation
 - Servicer lost the borrower's documents.
6. Did not correct errors
7. Dual Track: foreclosure proceeded while modification under review
8. Home sold while loan modification or other workout option was pending.
9. Inadequate loan modification evaluation.
10. No Modification Offer
11. HAMP Permanent Modification
12. Loan Modification Timeline
13. Appeal of Loan Modification Denial
14. Short Sales
15. Credit Reporting
16. Military Personnel
17. Issues related to fees and charges
18. Other

Thank you for completing the National Mortgage Settlement Housing Counselor Checklist

Do NOT close this page if you wish to submit an individual complaint to the state and federal agencies listed below. Once you leave this page, you cannot return. However, you may visit each agency's web site at any time to obtain information and assistance.

Thank you! A copy of the completed Checklist that you submitted will be sent to the email address that you provided. If you do not receive the completed Checklist, please check your spam or junk folder.

The information you provided as part of this Checklist will be combined with that provided by other counselors and advocates and sent to the Office of Mortgage Settlement Oversight (OMSO). The OMSO will not intervene and mediate individual complaints regarding servicers but the information will be used to enforce the terms of the Settlement. The OMSO website is <https://www.mortgageoversight.com>.

Filing Complaints

Would you also like to submit this Checklist as an individual complaint to your state Attorney General, the Consumer Financial Protection Bureau, the OMSO, and the U.S. Department of Housing and Urban Development (HUD)? See below for links to complaint forms. To save time, some of the information you submitted on this Checklist will be pre-filled for the agencies which have online complaint forms.

Attorney General

[File a Complaint](#)

Agency:

Address: Hoover State Office Building

Secondary address 1305 E. Walnut

City: Des Moines

State: Iowa

Zip: 50319

Phone: 688-777-4590

Website: <http://www.iowaattorneygeneral.gov/>

Consumer Financial Protection Bureau

[File a Complaint](#)

National Consumer Law Center and the National Housing Resource Center

1 message

Tue, May 7, 2013 at 12:59 PM

Thank you for completing the Checklist. Here is the information that you submitted:

Counselor Information:

OCCUPATION: housing_counselor

NAME: Jane Smith

PHONE: 5152815497

EMAIL:

TITLE:

ORGANIZATION:

Borrower Information:

NAME OF BORROWER: John Doe

ADDRESS OF PROPERTY SUBJECT TO FORECLOSURE: 1234 Main St.

STREET: Anytown

CITY: IA

ZIP CODE: 50319

RACE/ETHNICITY OF BORROWER: Hispanic

MALE/FEMALE: M

AGE: 44

HAS THE BORROWER FILED FOR BANKRUPTCY? no

IS THE BORROWER A SERVICE MEMBER ON ACTIVE DUTY? no

LOAN NUMBER: 4598712256

CURRENT SERVICER: Bank of America

IS THIS A FANNIE MAE OR FREDDIE MAC LOAN? yes

MALE/FEMALE: M

AGE: 44

HAS THE BORROWER FILED FOR BANKRUPTCY? no

IS THE BORROWER A SERVICE MEMBER ON ACTIVE DUTY? no

LOAN NUMBER: 4598712256

CURRENT SERVICER: Bank of America

IS THIS A FANNIE MAE OR FREDDIE MAC LOAN? yes

IS THIS LOAN INSURED OR GUARANTEED BY FHA, VA, OR RHS? no

IS THE LOAN UNDERWATER?

IF THE LOAN IS UNDERWATER, BY HOW MUCH (IF KNOWN)? 0.00

THE NPV ANALYSIS IS: POSITIVE

WAS YOUR CLIENT OFFERED A PRINCIPAL REDUCTION? yes

Loan Checklist

1. Single Point of Contact (SPOC)
 - + **No SPOC provided** Servicer did not provide an easily accessible and reliable single point of contact.
2. Lost documentation
 - + Servicer lost the borrower's documents.

The borrower received a loan modification agreement he/she could not understand because it was in English.

no

The borrower received other servicer documents he/she could not understand.

yes

The borrower was not permitted to submit his/her hardship letter in their native language.

no

The borrower was not able to talk with the servicer about the specifics of his/her mortgage situation (or loan modification request) in a language in which he or she is fluent.

no

If the borrower has a disability (such as hearing or vision impairment), has he/she asked for a reasonable accommodation (such as written communication or large print) and not received it? no

More information regarding the National Mortgage Settlement Housing Counselor Checklist is available at the National Consumer Law Center (www.nclc.org) and the National Housing Resource Center (www.hsgcenter.org).

Comparison of the CFPB Final Mortgage Servicing Rules & the Servicing Standards of the National Mortgage Settlement

CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
<p>Amends Regulation X, which implements the federal Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. §§ 2605 et seq.); and Regulation Z, which implements the federal Truth in Lending Act (TILA) (15 U.S.C. §§ 1601 et seq.); as required by the Dodd-Frank Act.</p>	<p>Regulation X, 12 CFR Part 1024; and Regulation Z, 12 CFR Part 1026</p>	<p>Settlement entered into with state attorneys general, the federal government and five large servicers to settle claims regarding improper and abusive servicing conduct.</p>	<p>Exhibit A of the Settlement</p>
<p>Who is covered?</p>	<p>The rules generally apply to almost all mortgage loans serviced by the typical servicer. The rules governing loss mitigation apply to owner-occupied homes. Small servicers, who service 5,000 or fewer loans that they or an affiliate originate or own, are exempt from certain requirements.</p>	<p>The servicing standards apply to the five servicers who signed the agreement with the state attorneys general and federal government: Bank of America, JP Morgan Chase, Citi, Wells Fargo and Ally/GMAC. The servicing standards apply to <i>all</i> loans serviced by each of the five servicers if the loan is for an owner-occupied property that is the primary residence of the borrower.</p>	

Effective Date

January 10, 2014

April 5, 2012; the servicing standards were effective October 2, 2012

General Servicing Policies and Requirements

	<p>Servicers must have in place policies and procedures to ensure accurate and timely disclosures; the ability to investigate and respond to complaints; and provide borrowers with accurate and timely information and documents in response to requests.</p>	<p>12 CFR § 1024.38 12 CFR § 1024.32</p>	<p>Servicers must maintain procedures for the accurate and timely updating of borrowers' accounts, including the application of payments and imposition of fees. Servicers must have in place an adequate number of employees, and have standards to train and supervise employees; maintain supervision of third-party vendors; and adopt a dispute process.</p>	<p>I.A I.B II IV.H I.B.7</p>
<p>No Robo-signing</p>	<p>Servicers must have in place policies and procedures to make sure documents submitted to the court are accurate, contain current information and comply with the law.</p>	<p>12 CFR § 1024.38</p>	<p>Statements made in all documents submitted in foreclosure or bankruptcy proceedings must be accurate, complete and supported by competent and reliable evidence.</p>	<p>I.A</p>
<p>Provide a Single Point of Contact (SPOC)</p>	<p>An employee should be assigned no later than the 45th day of delinquency.</p>	<p>12 CFR § 1024.40</p>	<p>Servicer must provide an easily accessible and reliable single point of contact.</p>	<p>IV.C</p>

The employee is to respond to a delinquent borrower's questions, assist with loss mitigation options until the borrower has made two consecutive payments in-keeping with the loss mitigation agreement, without incurring a late fee.

The single point of contact must communicate the options available and the actions the borrower must take to be considered for the options; be knowledgeable about the borrower's situation and current status and convey this information to the borrower; and assist the borrower in pursuing alternatives to foreclosure after a loan modification denial.

IV.C

Manage escrow	Make timely payments from escrow accounts and, if the loan is paid off in full, refund balance within 20 days of loan payoff.	12 CFR § 1024.34	
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Resolve errors related to ten specific errors outlined in the regulations and any other error related to servicing of the loan. The servicer must acknowledge receipt of the borrower's written notice of error (or letter stating the errors on the account) within 5 business days and investigate, correct or respond to the notice within 30 business days. Servicer may have an additional 15 days to respond if servicer notifies borrower in writing of the reason for the extension. If the error is related to the balance needed to pay off a loan, the servicer only has 7 business days to respond.

Resolve errors

12 CFR § 1024.35;
12 CFR § 1024.40(b)(4)

Promptly correct errors on the borrower's account.

I.B.8

CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
<p>Respond to requests for information</p>	<p>The servicer must acknowledge receipt of the borrower’s written request for information (or letter from the borrower requesting information) within 5 business days, and respond to such requests within 30 days. If the request is for the identity of the owner or assignee of the loan, the servicer must respond in 10 business days. The time to respond may be extended under the same standard outlined above for resolving errors. However no extension of time is allowed for information regarding the owner or assignee of the loan. No fee may be charged for responding to a request for information.</p>	<p>12 CFR § 1024.36</p>	

Acknowledge, investigate and respond to Qualified Written Requests in the same manner as the notice of error and request for information outlined above.

12 CFR § 1024.30;
12 CFR § 1024.35;
12 CFR § 1024.36

QWR

	CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
<p>Send periodic (i.e., monthly) statements</p>	<p>Servicer must provide borrowers, for each billing cycle, with a statement containing: amount due, explanation of amount due, breakdown of the past payment, transaction activity, partial payment information, contact and account information, and delinquency information. Exclusion for fixed-rate loans where servicer provides coupon books that include certain information.</p>	<p>12 CFR § 1026.41</p>	<p>Servicer must provide adequate information on monthly billing or other statements. This includes the: total amount due; how payments are allocated; unpaid principal; fees and charges; current escrow balance; and reasons for any payment changes. Exclusion for fixed-rate loans where servicer provides coupon books.</p>	<p>I.B.5</p>

Full periodic (i.e., monthly) payments must be credited on the day it is received, except when a delay in crediting payment will not result in a charge to the borrower or a negative credit report. A full payment is one that covers principal, interest, and escrow (if applicable). If the servicer accepts payments that do not conform to its written policy it must credit the payments within five days of receipt. Partial payments held in suspense must be disclosed and applied when enough to cover monthly payment.

Accept payments

Servicers must promptly credit payments within two days of receipt. A servicer must accept partial payments that are within \$50 of the scheduled payment. If a servicer holds a partial payment in a suspense account, it must disclose that it has done so. When the amount of money in a suspense account is enough to make a full payment, the servicer has to apply the money to the borrower's account. The servicer must pay principal, interest and escrow before applying servicer fees.

12 CFR § 1026.36(c)

I.B.2-3

CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
<p>Limit fees</p> <p>No pyramiding of late fees. That is, no late fee may be charged on a timely payment based solely on the failure of the borrower to pay a late fee on an earlier payment.</p>	<p>12 CFR § 1026.36(c)</p>	<p>Servicer must provide plain language explanations and information for all fees charged; no pyramiding of late fees; no late fees added to account while a complete loan modification application or short sale offer is under consideration; and cannot charge the borrower an application or processing fee for a modification. Attorneys' fees must be for work actually performed and not in excess of what is reasonable and customarily charged for such work. All fees must be bona fide, reasonable and disclosed in detail. Fee schedule should be put on servicer's website.</p>	<p>VI.A VI.B.4 IV.I.4 IV.J.3</p>
<p>Retain documents</p> <p>Retain documents until one year after loan is discharged or servicing is transferred.</p>	<p>12 CFR § 1024.38(c)</p>		
<p>Don't lose documents!</p> <p>Servicer should have all the written documents the borrower provided to the servicer and to any prior servicer (if loan servicing was transferred) in connection with loss mitigation application.</p>	<p>12 CFR § 1024.40(b)(2)</p>	<p>The servicer should not lose the borrower's documents. Servicers should have adequate systems for tracking borrower documents and information.</p>	<p>IV.C.3 IV.H.1</p>

Servicer must provide notice at the loan application that the servicing of the loan may be assigned, sold or transferred; notice that the loan has been transferred; and the treatment of payments during the loan transfer. In addition, the servicer must facilitate transfer of information to new servicer during servicing transfers

Provide notice and other information upon transfer of servicing

Servicer should inform the new servicer that a loan modification application is pending and any contract should obligate the new servicer to continue processing the request and honor any outstanding trial or permanent modification agreements.

12 CFR § 1024.33
12 CFR § 1024.38

IV.M

Communication with the Borrower BEFORE Referral to Foreclosure Attorney

Contact delinquent borrower no later than 36th day of delinquency. Inform of any available loss mitigation option.

12 CFR § 1024.39

Servicer must notify borrower of currently available loss mitigation programs or loan modification options; and contact information for national or state foreclosure assistance hotlines and state housing counseling resources.

IV.A.1
IV.D.1

Written notice sent no later than the 45th day of delinquency. The notice is not required to be sent more than once during any 180 day period.

Pre-foreclosure notice

14-Day Pre-Foreclosure Notice. The Borrower must receive a pre-foreclosure notice 14 days before referral to an attorney.

12 CFR § 1024.39

I.A.18

	<p>Written notice sent no later than the 45th day of delinquency will describe loss mitigation options, if applicable.</p>		<p>The Pre-foreclosure notice must include facts supporting the servicer's right to foreclose; notification of borrower's right to request a payment history, note, mortgage with all assignments (if foreclosure has started) and the name of the investor who holds the loan; an itemized summary of the terms of the loan, amount owed and amount required to bring loan current; contact information for the servicer and HUD housing counselors; and a summary of loss mitigation efforts to date.</p>	<p>I.A.18 I.B.10 IV.B.13</p>
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Communication with the Borrower AFTER Referral to Foreclosure Attorney

Borrower must receive written communication within five days after referral to foreclosure that he/she is still eligible for alternatives to foreclosure and should contact the servicer.

IV.D.6

Loss Mitigation

In general, servicers must provide accurate information regarding loss mitigation options; identify all options the borrower may be eligible for; provide prompt access to documents; identify documents needed to complete an application; and properly evaluate the borrower for all loss mitigation options.

12 CFR § 1024.38

Servicers must provide accurate information to borrowers related to the qualifications process and eligibility for loss mitigation programs. Servicer must notify borrowers of currently available loss mitigation programs, repayment reduction programs or loan modification options.

IV.A.1
IV.D.1
IV.D.2

Servicer must exercise reasonable diligence in obtaining documents and information needed to complete a loss mitigation application. Complete means servicer has received all the information it requires.

12 CFR § 1024.41

Servicers must provide accurate information to borrowers related to the qualifications process and eligibility for loss mitigation programs. Servicer must notify borrowers of currently available loss mitigation programs, repayment reduction programs or loan modification options.

IV.A.1
IV.D.1
IV.D.2

Servicer must exercise *reasonable diligence* in obtaining documents and information needed to complete a loss mitigation application. Complete means servicer has received all the information it requires.

Complete application

12 CFR § 1024.41

An application is substantially complete if only the documentation of hardship is missing. A “complete” application is not defined

IV.B.1

If servicer receives a loss mitigation application 45 days or more before a foreclosure sale the servicer must review it to make sure it is complete and acknowledge receipt in writing within five days. If the application is incomplete, the notice should state what documents and information are needed and the deadline to submit the missing documents.

Servicer must send written acknowledgment of receiving loan modification documents within three business days; a notice to borrower that documents were missing within five business days of application; give thirty days to provide missing information; make a decision on a complete loan modification application within thirty days; or notify borrower of loan modification denial within ten business days of decision.

IV.F.1
IV.F.2-3
IV.F.4
IV.F.7

12 CFR § 1024.41(b)

Evaluate for all loss mitigation options

If servicer receives a *complete* loss mitigation application 37 days or more before a foreclosure sale, then the servicer has thirty days to evaluate the borrower for all loss mitigation options and offer an option.

Servicer must *notify* borrowers of currently available loss mitigation options prior to referral foreclosure. If servicer receives a *complete* loss mitigation application they must evaluate borrower for all loan modification options.

IV.A.1

12 CFR § 1024.41(c)(1)

Servicer cannot evade the requirement to evaluate a complete loan application. However, servicer has the discretion to evaluate an incomplete application and offer an option if it was reasonably diligent about getting the documents and information needed to complete the application but the borrower didn't submit anything further or make progress in providing the information.

12 CFR § 1024.41(c)(2)

	CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
Evaluate for a loan modification	<p>Servicer must evaluate for loan modification (and other options) if it receives a complete application 37 days or more before a foreclosure sale.</p>	<p>12 CFR § 1024.41(c)</p>	<p>If the servicer receives a complete application, the servicer must evaluate the borrower for all available loan modification options prior to referring borrower to foreclosure.</p>	<p>IV.A.1</p>
Offer a loan modification or other option			<p>Servicer must offer loan modification to an eligible borrower with a positive NPV.</p>	<p>IV.A.2</p>
Notice of denial	<p>Notice must be sent if a loan modification is denied with specific reasons for the servicer's decision, the ability to appeal the decision, and the deadline and requirements for the appeal.</p>	<p>12 CFR § 1024.41(d)</p>	<p>Servicer must send a written notice of denial with the reasons for denial and factual information considered.</p>	<p>IV.G.2</p>

For loan modifications only. Available if the loss mitigation application was submitted 90 or more days before a foreclosure sale. Borrower has 14 days to appeal the decision. Servicer has 30 days to make a decision on the appeal.

Appeal process

Borrower must be given 30 days from the loan modification denial notice to request an appeal or provide information as to why the servicer's determination was in error. Servicer has up to 30 days to make a decision on the appeal.

IV.G.3

Dual Track: Foreclosure Proceeded While Application Under Review

Before the loan is referred to foreclosure

The servicer must not make the first notice or filing required by law to start the foreclosure process unless the borrower is more than 120 days delinquent.

12 CFR § 1024.41(f)

If the borrower is not in foreclosure, the servicer may not refer the borrower to foreclosure while a complete or substantially complete loan modification application is under consideration. The application must be received within 120 days of delinquency.

IV.B

If the borrower submits a complete loss mitigation application during the 120 day pre-foreclosure review period (or before the servicer has made the first legally required notice or filing) the servicer must not start the foreclosure process unless one of three conditions is satisfied: (1) borrower has been sent a notice that he or she is not eligible for any loss mitigation option and this decision cannot be appealed or the borrower can appeal the decision but has not requested a timely appeal or the appeal was denied; (2) borrower rejects all options offered by the servicer; or (3) borrower fails to perform under the loss mitigation agreement.

12 CFR § 1024.41(f)(2)

If the servicer receives a complete or substantially complete loan modification application no later than the 120th day of delinquency, the borrower may not be referred to foreclosure until one of the following conditions apply: (1) servicer determines that borrower is not eligible for a loan modification; or (2) borrower declines or does not timely accept any foreclosure prevention alternative that is offered. Referral to foreclosure is further delayed if the servicer offers the borrower a loan modification. The servicer will not refer the loan to foreclosure unless the borrower does not accept the offer by the deadline (14 days); does not make the first trial period payment on time; or subsequently violates the terms of the trial period plan.

IV.B.1

A substantially complete application is one that is missing only the required hardship documentation. The hardship documentation must be received no later than the 130th day of delinquency.

If the borrower submits a complete loss mitigation application after the loan is put in foreclosure, but more than 37 days before a sale, the servicer must not seek a foreclosure judgment, order of sale, or conduct a foreclosure sale while the application is under review. Same exceptions as outlined above apply. The servicer must not restart the foreclosure process unless one of three conditions is satisfied: (1) borrower has been sent a notice that he or she is not eligible for any loss mitigation option and this decision cannot be appealed or the borrower can appeal the decision but has not requested a timely appeal or the appeal was denied; (2) borrower rejects all options offered by the servicer; or (3) borrower fails to perform under loss mitigation agreement

Stopping the foreclosure process or sale after the loan has been referred to foreclosure

The foreclosure process may not move forward after referral to a foreclosure attorney if the servicer receives a *complete* loan modification application within 30 days after the letter from the foreclosure attorney. The servicer must not seek a foreclosure judgment, court order of sale, or foreclosure sale date while the loan modification application is under consideration.

12 CFR § 1024.41(g)

IV.B.4

Note that only the initial letter (sent within 5 business days of referral) from the foreclosure attorney will give borrowers 30 days to submit a complete loan modification application.

If the servicer *offers the borrower a loan modification*, then the foreclosure process and sale continue to be put on hold until the borrower declines the offer or the date to respond has expired; accepts the offer but does not submit the first trial period plan payment on time or subsequently violates the terms of the plan.

<p>More than 37 days before the sale</p>	<p>Same as above.</p>	<p>12 CFR § 1024.41(g)</p>	<p>If the servicer receives a complete loan modification application more than 37 days before a foreclosure sale the servicer cannot conduct a foreclosure sale while the loan modification application is under consideration.</p>	<p>IV.B.6</p>
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If the servicer *offers the borrower a loan modification*, then the foreclosure sale continues to be put on hold until the borrower declines the offer or the date to respond has expired; accepts the offer but does not submit the first trial period plan payment on time or subsequently violates the terms of the plan.



CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
<p>37 to 15 days before sale</p>		<p>If the servicer receives a complete loan modification application 37-15 days before a foreclosure sale, the servicer must conduct an expedited review.</p> <p>The sale will NOT be put on hold unless the servicer offers the borrower a loan modification.</p> <p>If the servicer offers the borrower a loan modification, then the foreclosure sale will be put on hold until the borrower declines the offer or the date to respond has expired; accepts the offer but does not submit the first trial period plan payment on time or subsequently violates the terms of the plan.</p>	<p>IV. B.8</p>
<p>Less than 15 days before the sale</p>		<p>Review of the complete loan modification application is at the discretion of the servicer. The servicer must notify the borrower as to its decision (or inability to complete the review of the application) before the foreclosure sale date.</p>	<p>IV. B.9</p>

However, if the servicer offers the borrower a loan modification, then the foreclosure sale should be put on hold until the borrower declines the offer or the date to respond has expired; accepts the offer but does not submit the first trial period plan payment on time or subsequently violates the terms of the plan.

CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
<p>Appealing denial of loan modification</p>	<p>For denials of loan modifications only. A borrower may appeal a denial of a loan modification request so long as the borrower's complete loss mitigation application was received 90 days or more before a scheduled foreclosure sale. Borrowers have 14 days after being provided the denial notice to submit an appeal. An employee not involved in the initial evaluation of the borrower's application will make a decision within 30 days of the borrower making an appeal and provide the borrower with a written decision. The borrower has 14 days to respond to any offer.</p>	<p>12 CFR § 1024.41(h), (e), (f)</p> <p>Servicer may not move forward with the foreclosure sale while an appeal of the denial of a loan modification is pending. In other words, during the appeal, the foreclosure process itself will continue no sale will be held unless the conditions listed below are met.</p>	<p>IV.B</p>

HAMP

HAMP Permanent Modification

A borrower who was denied a permanent loan **modification after making all the required payments under the HAMP trial period plan must be given the opportunity to reapply for a loan modification using current financial information.** This applies if the borrower was qualified under the original HAMP program guidelines where borrowers were not pre-qualified.

IV.A.3

CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
		A borrower who has made all required payments under the HAMP trial period plan must be converted to a permanent modification.	IV.A.4
Force-Placed Insurance			
<p>Servicer cannot impose force-placed insurance unless there is a reasonable basis to believe borrower has not complied with mortgage requirement to maintain hazard insurance. Borrower must be sent written notices and be given a chance to submit proof of insurance before charges are imposed. All charges must be bona fide and reasonable. Insurance must be cancelled and premiums and fees refunded if insurance is in place.</p>	<p>12 CFR § 1024.37</p>	<p>Servicer must not obtain force-placed insurance unless there is a reasonable basis to believe borrower has failed to comply with the loan contract's requirement to maintain property insurance. Borrower must be sent written notices and a chance to submit proof of insurance coverage. Insurance must be cancelled and premiums and fees refunded if insurance is in place. Any force-placed insurance purchased must be commercially reasonable in price.</p>	VII
<p>Servicer may not force place insurance if borrower has an escrow account unless servicer is unable to disburse funds from the escrow account to pay insurance premiums in a timely manner. If there is not enough money in the account the servicer must advance funds even if the borrower's payments are more than 30 days overdue.</p>	<p>12 CFR § 1024.17(k)(5)</p>	<p>For escrowed accounts, servicer must advance payments for the homeowner's existing policy, unless the borrower or the insurance company cancels the existing policy.</p>	VII

For first-lien mortgage loans, if the borrower wishes to keep his voluntary policy, the servicer will set up an escrow account and advance premiums.

VII.A.3

Limits on type of coverage. Servicer cannot place insurance in excess of the greater of the replacement value, last known amount of coverage or outstanding loan balance, unless required or requested by the borrower in writing.

VII.A.5

Miscellaneous Other Issues

Loss mitigation during bankruptcy

Servicers may not deny loss mitigation options to eligible borrowers in bankruptcy. Trial period plans must be extended to accommodate delays in obtaining court approvals or receiving debtor's trial period plan payments.

IV.L

CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
<p>No release of legal claims as a condition of workout</p>		<p>Servicer cannot require borrower to waive or release claims or defenses as a condition for approval of a loan modification or other workout option. Waiver can only be required for a loan modification that resolves a contested claim (i.e., where a lawsuit was filed) where borrower would not otherwise have qualified for a loan modification under existing programs.</p>	<p>IV.H.10</p>
<p>Abandon the foreclosure process</p>		<p>If the servicer decides not to pursue foreclosure (or abandons the process) with respect of a first-lien mortgage, servicer must notify the borrower and local authorities.</p>	<p>VIII.A.4</p>
		<p>Servicer should make information regarding the short sale process publicly available and develop a process to allow borrowers to evaluate the feasibility of short sale before putting a home on the market. Servicer must send written confirmation of a request for a short sale within 10 business days.</p>	<p>IV.K</p>

Servicer must provide a written answer to the borrower's short sale request within 30 days of receipt of all required information. Servicers may collect a deficiency payment if allowed by law but the borrower must be informed of the approximate amount. If the servicer waives a deficiency claim, it cannot transfer the claim to a debt collector or debt buyer for collection.

IV.K

Credit Reporting

Servicer must make accurate delinquency reports to credit reporting agencies while the borrower is making timely payments on a loan modification agreement.

IV.H.6

Tenants in foreclosed properties

Servicer must comply with all applicable state and federal laws governing the rights of tenants living in foreclosed properties.

VIII.B.

CFPB Mortgage Servicing Rules	RESPA/TILA	National Mortgage Settlement	Section
<p>Military Personnel</p>		<p>Servicers must comply with all applicable provisions of the federal Servicemembers Civil Relief Act (SCRA) and state law offering protections to service members. Servicer has a continuing obligation to assess eligibility under the SCRA during the default, foreclosure, post-sale and redemption periods. Notice must be sent to all customers who are 45 days delinquent regarding the SCRA. In servicing the loan, the servicer should not require the servicemember to default to qualify for a loss mitigation option; must take into account hardship caused by a permanent change of station order; and make accurate reports to credit reporting agencies.</p>	<p>V.</p>

No foreclosure without a court order or an agreement during and within nine months after the period in which the servicemember is eligible for Hostile Fire/Imminent Danger pay and is serving in a distant location.

V.F

Boston Headquarters:
7 Winthrop Square
Boston, MA 02110-1245
Phone: 617/542-8010
Fax: 617/542-8028
www.nclc.org

NCLC[®]

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CONSUMER
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Advancing Fairness
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Washington Office:
1001 Connecticut Ave, NW
Suite 510
Washington, DC, 20036
Phone: 202/452-6252
Fax: 202/463-9462