



FACT SHEET: NON-PERFORMING LOAN SALE GUIDELINES

NON-PERFORMING LOAN SALES

BACKGROUND

The Federal Housing Finance Agency (FHFA) requires sales of non-performing loans (NPLs) by Freddie Mac and Fannie Mae (the Enterprises) to meet specific requirements. Drawing on the Enterprises' experience with NPL sales, FHFA continues to enhance its NPL sales requirements, including enhanced standards announced in **March 2015** and **April 2016**.

As of the end of June 2017, Fannie Mae and Freddie Mac had sold over 82,000 mortgages with a total unpaid principal balance of \$16 billion. The loans included in NPL sales are generally severely delinquent. Loans already sold have been, on average, three years delinquent.

FHFA's goal is to achieve more favorable outcomes for borrowers and the Enterprises by providing alternatives to foreclosure wherever possible. FHFA believes that the sale of severely delinquent loans through NPL sales will improve borrower and neighborhood outcomes and will reduce Enterprise losses and risk to taxpayers. Reporting by servicers on borrower outcomes is required. This allows FHFA, the Enterprises and the public to evaluate outcomes, which are periodically reported by FHFA in its *Enterprise Non-Performing Loan Sales Reports*.

NPL SALE GUIDELINES

- **Bidder qualifications:** Bidders are required to identify their servicing partners at the time of qualification and must complete a servicing questionnaire to demonstrate a record of successful resolution of loans through alternatives to foreclosure;
- **Loss mitigation waterfall requirements:** Servicers must apply a waterfall of resolution tactics that first includes evaluating borrower eligibility for a loan modification, then a short sale or a deed-in-lieu of foreclosure. Foreclosure must be the last option in the waterfall. The waterfall may consider net present value to the investor;
- **Modification requirements:**
 - New servicers are required to solicit and evaluate all borrowers (other than those with an imminent foreclosure sale date or vacant property) for a loan modification that provides a benefit to the borrower and has the potential to be sustained by the borrower over the life of the modification;
 - Servicers are required to evaluate borrowers with a mark-to-market loan-to-value ratio above 115 percent for loan modifications that include principal and/or arrearage forgiveness;

KEY ELEMENTS OF NPL SALE GUIDELINES

Servicers must apply a waterfall of resolution tactics that first includes evaluating borrower eligibility for a loan modification, then a short sale or a deed-in-lieu of foreclosure. Modifications must provide a benefit to the borrower and the potential for a sustainable modification, and may include principal and/or arrearage forgiveness. Foreclosure must be the last option in the waterfall.

Servicers are encouraged to sell properties that have gone through foreclosure and entered Real Estate Owned (REO) status to individuals who will occupy the property as their primary residence or to non-profits.

Buyers must agree they will not "walk away" from vacant properties, or enter into "contract for deed" agreements on REO properties, unless the purchaser is a non-profit.

NPL buyers and servicers, including subsequent servicers, are required to report loan resolution results and borrower outcomes to the Enterprises for four years after the NPL sale.



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- Modifications must not include an upfront fee or require prepayment of any amount of mortgage debt. They must either be fixed rate for the term of the modification or offer an initial period of reduced payments with limits on subsequent increases consistent with Home Affordable Modification Program (HAMP) requirements. The initial period must last for at least 5 years and interest rate increases may not exceed 1 percentage point per year thereafter;
- **No “walkaways”:** If a property securing a loan is vacant, buyers and servicers may not abandon the lien and “walk away” from the property. Instead, if a foreclosure alternative is not possible, the servicer must complete a foreclosure or sell or donate the loan, including to a government or non-profit entity;
- **REO sale requirements:** Servicers are encouraged to sell properties that have gone through foreclosure and entered Real Estate Owned (REO) status to individuals who will occupy the property as their primary residence or to non-profits. As a result, for the first 20 days after any NPL that becomes an REO property is marketed, the property may be sold only to buyers who intend to occupy the property as their primary residence or to non-profits;
- **Restriction on “contract for deed:”** NPL buyers must agree that they will not enter into, or allow servicers to enter into, contract for deed or lease to own agreements on REO properties unless the tenant or purchaser is a non-profit organization;
- **Subsequent servicer requirements:** Subsequent servicers must assume all the responsibilities of the initial servicer;
- **Bidding transparency:** To facilitate transparency of the NPL sales program and encourage robust participation by all interested participants, each Enterprise has developed a process for announcing upcoming NPL sale offerings. This includes an NPL webpage on the Enterprise’s website, email distribution to small, non-profit and minority- and women-owned business (MWOB) investors, and proactive outreach to potential bidders;
- **Small pools:** The Enterprises will offer small, geographically concentrated pools of NPLs, where feasible, to maximize opportunities for nonprofit organizations and MWOBs to purchase NPLs. The Enterprises will actively market such offerings to nonprofits and MWOBs and provide additional time for buyers to complete the transaction;
- **Reporting requirements:** NPL buyers and servicers, including subsequent servicers, are required to report loan resolution results and borrower outcomes to the Enterprises for four years after the NPL sale. These reports will help FHFA and the public evaluate the NPL program results and determine whether an NPL buyer and NPL servicer continue to be eligible for future sales based on pool level borrower outcomes, adjusted for subsequent market events. Consistent with applicable law, FHFA and/or the Enterprises provide public reports on aggregate borrower outcomes at the pool level.