



MORTGAGE BANKERS ASSOCIATION

May 15, 2024

Maria Fernandez
Senior Associate Director
Office of Housing and Regulatory Policy
Division of Housing Mission and Goals
Federal Housing Finance Agency
400 7th St. SW
Washington, DC 20219

RE: Servicing Policy Development Process

Dear Ms. Fernandez:

We appreciate the efforts of the Federal Housing Finance Agency (FHFA), Fannie Mae, and Freddie Mac (the Enterprises) to design clear and effective mortgage servicing guidance through engagement with industry stakeholders. We also recognize the challenges of developing and releasing housing policy. Several recent examples of new policies released to servicers demonstrate the complexities of developing guidance and the need for more details to be provided to the industry before announcement and implementation. To improve the deployment of effective mortgage servicing policy to borrowers, the Mortgage Bankers Association (MBA) requests that FHFA and the Enterprises create a process for mortgage servicers to evaluate written drafts of proposed guidance for instances where the Enterprises seek alignment. Greater transparency in the policy development process allows stakeholders to provide insights into the practical application of proposed policy changes before new guidance becomes effective.

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As you know, mortgage servicing is an ever-evolving industry driven by technological innovations, strict regulatory oversight, and policy improvements. Loans are often serviced in accordance with policies set by the loan investor. The Enterprises have extensive servicing guides that cover nearly every aspect of mortgage loan servicing. These guidelines are continually updated. In 2023 alone, Fannie and Freddie released 22 announcements covering 72 individual policy topics, ranging from updates for clarity to significant changes in multiple loss mitigation products. When the Enterprises announce policy changes, servicers must update their processes and technology to ensure compliance with these new policies.

Currently, FHFA and the Enterprises use three key formal forums to share information and solicit comments on potential or upcoming policy changes. These forums include Servicer Advisory Board meetings, Fannie's Servicing Policy Forum, and topic-focused joint servicer outreach calls hosted by FHFA as needed. In addition to these formal meetings, Fannie, Freddie, and FHFA may receive feedback from servicers through calls or engagements, such as at mortgage conferences like MBA Annual or Servicing. Servicers

can also provide unsolicited feedback at any time through various channels. These processes typically involve discussions about the challenges presented by current policies, potential policy solutions, and the time required to implement these changes. The potential policies discussed almost always remain conceptual rather than specific. Initial drafts of new policies are not committed to writing or presented.

In contrast, while recognizing the Enterprises are private institutions, the Federal Housing Administration (FHA) and the Department of Agriculture (USDA) use a formal public process to solicit comments on written proposed guidance. This process is mandated when the proposed changes specifically affect federal regulations, but FHA and USDA also choose to follow this process voluntarily through their use of a drafting table or policy desk. Both processes help ensure that the final guidelines and rule changes will be operationally feasible for servicers.

We believe there is an opportunity to improve the feedback process used by FHFA and the Enterprises by incorporating a review of the specific written draft policy in the forums these agencies currently use to collect feedback and expanding participation in these forums to include industry partners, such as trade associations. A review of the actual drafted policy will enable servicers to:

1. Accurately estimate the time needed to implement the proposed changes. With greater transparency, servicers can proactively prepare for implementation and reduce the time to adjust their processes.
2. Identify areas where the written language of the policy may be unclear or leave operational gaps, despite conceptual alignment among stakeholders. So much of effective policy implementation relies on the specific details and servicers can assess whether the policy conveys the alignment intended, despite language choice differences between Fannie and Freddie's policies. Ensuring clarity will create a consistent experience for borrowers.

To illustrate, written policy shared in advance with servicers would have benefited recently announced policies, such as the clarifications to Property Insurance Requirements and last year's Payment Deferral.¹ Similarly, written drafts were not provided to pending changes to the Enterprises flagship loss mitigation solution, the Flex Modification.² Given the vital role the Enterprises play in the mortgage markets, a thorough understanding of operational nuances and existing practices are critical to ensuring the successful delivery of mortgage policy. Collaboration to understand these nuances would eliminate unnecessary challenges.

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¹ One example is the eligibility requirements for the payment deferral. Both Fannie and Freddie specify in their guides that servicers are not permitted to defer more than six months of principal and interest payments as part of a deferral, and all payment deferrals may not exceed a cumulative twelve months of deferred principal and interest payments. Borrowers may be required to make an interim payment during the timeframe when the deferral is being completed if the loan will exceed these thresholds (see Appendix, Exhibit C). Fannie and Freddie's written policies vary on whether clients may be conditionally approved for payment deferrals with the condition that the client make *more than one payment* to become and remain eligible for the payment deferral product.

² Our understanding is that servicers will have approximately 6 months to implement the new Flex Modification. A reliance on variance requests for sufficient implementation time as a standard demonstrates the rule and not the exception. Stronger engagement is necessary.

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Thank you for considering these comments. As stakeholders invested in the efficacy of the program, we urge you to consider this request, recognizing its importance in ensuring the long-term success of important policy initiatives. Please contact Brendan Kelleher at Bkelleher@mba.org should you wish to discuss this matter further.

Sincerely,

Justin Wiseman
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Residential Policy & Strategic Industry Engagement
Mortgage Bankers Association