



*Announcement 06-24*

*December 7, 2006*

*Amends these Guides: Servicing*

***Process for Foreclosing on Mortgage Loans Reflecting Mortgage Electronic Registration Systems, Inc. as Mortgagee***

This Announcement describes our new policy related to foreclosure actions for mortgages in which Mortgage Electronic Registration Systems, Inc. ("MERS") is the mortgagee of record. These changes are effective immediately for any foreclosure action initiated on or after publication of this Announcement.

***Judicial Foreclosure***

**Servicing Guide Part VIII, Section 105, Conduct of Foreclosure Proceedings**

Effective immediately, MERS must not be named as a plaintiff in any judicial action filed to foreclose on a mortgage owned or securitized by Fannie Mae. MERS is the mortgagee of record when either a mortgage names MERS as the original mortgagee and is recorded in the applicable land records, or a completed and recorded assignment names MERS as the mortgage assignee. Therefore, in most jurisdictions, the servicer will need to prepare a mortgage assignment from MERS to the servicer, and then bring the foreclosure in its own name, unless the Servicing Guide requires that the foreclosure be brought in the name of Fannie Mae. In that event, the assignment will need to be from MERS to Fannie Mae.

The assignment from MERS to the servicer should be in recordable form (*e.g.*, executed and notarized) and, in some jurisdictions, it will need to be recorded. In other jurisdictions, it may be held by the servicer or the foreclosure attorney without being recorded. Because the assignment will be completed before the foreclosure begins (and recorded if required by applicable law), MERS will no longer be the mortgagee. Therefore, MERS should not be named as a plaintiff in the foreclosure complaint or other judicial filings.

The servicer should consult its foreclosure attorney to determine the specific legal requirements of each jurisdiction in which it conducts judicial foreclosures of mortgage loans in which MERS is the mortgagee of record.

### ***Non-Judicial Foreclosure***

In any non-judicial foreclosure proceedings, the servicer has the option of either assigning the mortgage from MERS to the servicer (in accordance with the process outlined above for judicial foreclosures), or proceeding with the foreclosure with MERS as the mortgagee of record.

If MERS remains the mortgagee of record, the servicer must ensure that the foreclosure attorney or trustee accurately identifies the status of MERS. MERS may never be identified as the “owner” or the “holder” of the Note or Security Instrument being foreclosed. MERS may be identified as the beneficiary of the deed of trust being foreclosed, but only if MERS is also identified as a nominee for the servicer, or as a nominee for Fannie Mae if our Servicing Guide requires the foreclosure to be brought in Fannie Mae’s name.

The servicer should consult with its foreclosure attorney or trustee to determine the specific legal requirements of each jurisdiction in which it conducts non-judicial foreclosures of mortgages in which MERS is the mortgagee of record. Further, if MERS remains the mortgagee of record, then the servicer should also consult with its foreclosure attorney or trustee to determine the appropriate manner for identifying MERS’ interest in the subject mortgage.

In any event, if an assignment has been recorded from MERS to either the servicer or Fannie Mae, and the borrower reinstates the mortgage prior to completion of the foreclosure proceedings, the servicer may choose to re-assign the mortgage to MERS and re-register the mortgage with MERS. Any such action will be at the discretion and expense of the servicer.

### **Servicing Guide, Part VIII, Section 108.03, Other Reimbursable Expenses**

Fannie Mae will not reimburse the servicer for any expense incurred in preparing or recording an assignment of the mortgage from MERS to the servicer or Fannie Mae, as applicable.

### **Servicing Guide, Part VIII, Section 202.03, Foreclosure Conducted in MERS’ Name**

The provisions in Servicing Guide Part VIII, Section 202.03, addressing conveyance of properties when the foreclosure was conducted in the name of MERS, will continue to apply to any non-judicial foreclosure action completed in accordance with this Announcement and in which MERS remains the mortgagee of record.

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Servicers should contact their Portfolio Manager or Servicing Consultant if they have any questions about the information addressed in this Announcement.

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