Understanding the National Mortgage Settlement

A Roadmap for Housing Counselors

Brought to you by





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National Consumer Law Center

- Advocates on behalf of low-income consumers
- Provide training, legal analysis, case consultation and advocacy on consumer law issues
- In-person and online training to housing counselors and attorneys
- Books and manuals
- Visit our website: www.nclc.org





National Housing Resource Center

- Advocate for increased and programs for non-profit housing counseling community
- Mobilize counseling agencies, networks, and intermediaries on housing issues



- More than 200+ resources, policy positions, and more for the housing counseling community: <u>hsgcenter.com</u>
- Join our mailing list by clicking or go to: http://www.hsgcenter.org/learn-more-about-nhrc/

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About This Course

- Two-part series on National Mortgage Settlement
 - Focus on Settlement's standards for servicing mortgage loans
- Part one: <u>Settlement's servicing standards</u>
- Part two: Settlement and CFPB servicing standards

Today's Agenda

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

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Five Servicers Covered by the National Mortgage Settlement





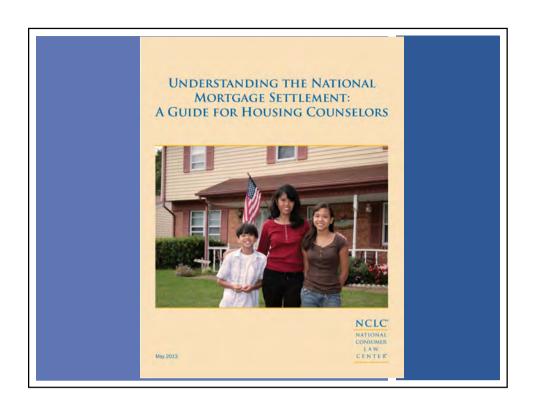


JPMorganChase 🧐



Bank of America 🧇





The Loan Modification Application

The Loan Modification Application

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

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What is a complete application?



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

What is a complete application?



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

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Tip: Make Sure it's Complete



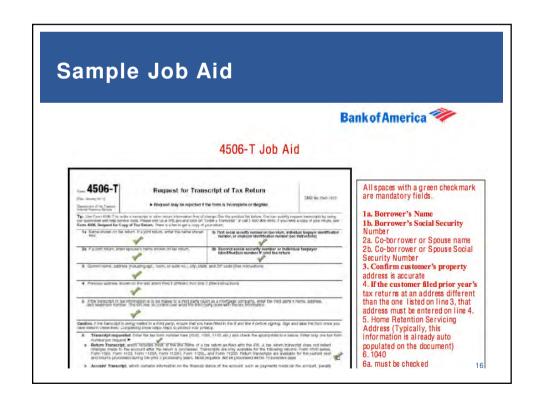
- Check servicers' websites for job aids
- Keep a record of what you submit with your application



- Submit documents electronically
- Contact the servicer after submission to confirm that it is complete











Poll Question No. 1



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

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

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Poll Question No. 1



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

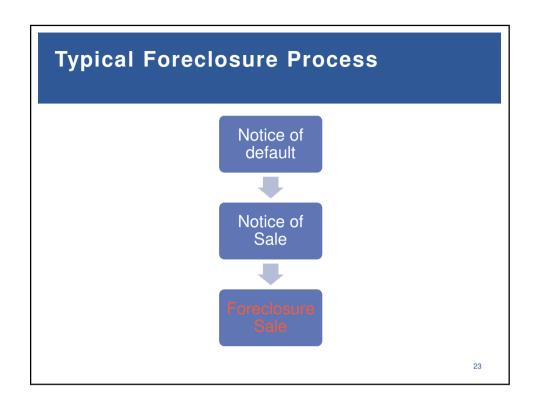
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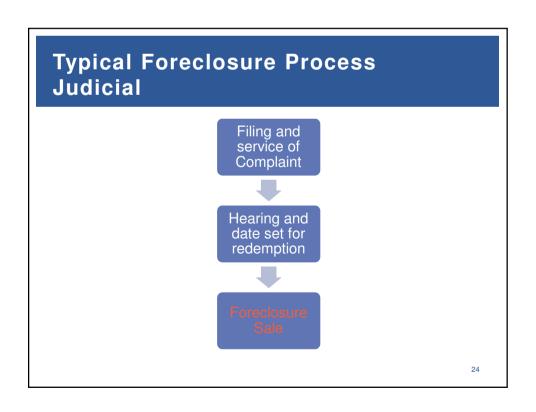
Limits On Dual Tracking

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What is dual tracking?

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





Key Time Period: Dual Tracking

60 days behind 90 days behind

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Limits On Dual Tracking



- Before servicer refers loan to foreclosure
 - Receives complete loan package by day 120
 - Review and make decision prior to referral
- After servicer refers loan to foreclosure
 - Restrictions on the process of moving toward judgment or sale if borrower submits a complete loan package
 - Stops the process while the borrower considers whether to accept or deny the loan modification offer

Before the Loan is Referred

- No referral to foreclosure while a complete or substantially complete loan modification application is under review
 - Complete application must be received no later than day 120 of delinquency
- Substantially complete loan modification application
 - Missing only hardship documentation
 - 130 days

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After the Loan is Referred - The Solicitation Letter



- Sent within 5 business days after referral to foreclosure
- Gives borrower 30 days to submit a complete loan modification application
- Stops the foreclosure process

Limits on Dual tracking

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

Post referral to foreclosure

Postpones motion for judgment/order of sale if application is received in 30 days

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More than 37 Days Before the Sale



- Receives a complete loan modification application
- Review the application
- ■No foreclosure sale
 - Process still continues

37 - 15 Days Before the Sale



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

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Less than 15 Days Before the Sale



- Receives a complete loan modification application
- Does **NOT** have to review the application
- Notify the homeowner as to its decision

When is it too late to stop the foreclosure sale? 37+ days prior to sale • Review application & delay sale 37-15 days prior to sale • Expedited review of application Less than 15 days prior to sale • Optional review of application Foreclosure sale

If the Servicer Makes an Offers a Loan Modification

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

Poll Question No. 2



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

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

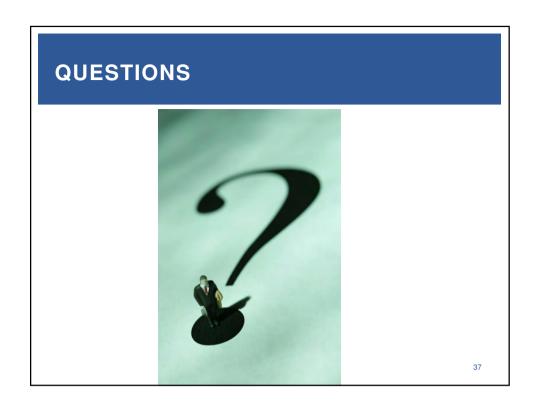
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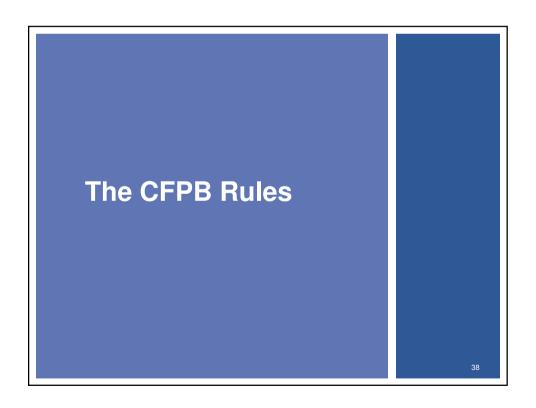
Poll Question No. 2



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

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The CFPB Mortgage Servicing Rules

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

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The CFPB Mortgage Servicing Rules

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

The CFPB Mortgage Servicing Rules

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

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The CFPB Mortgage Servicing Rules

- Limits on dual tracking
- Limits on force-placed insurance

Communication with Homeowners



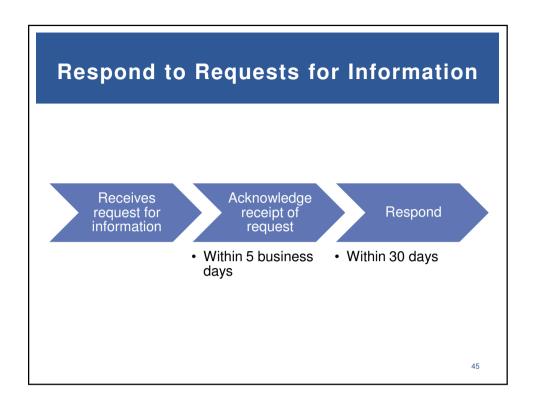
- Contact homeowner
- Assign a single point of contact
- Send a pre-foreclosure notice
- **Respond** to requests for information and/or correct errors

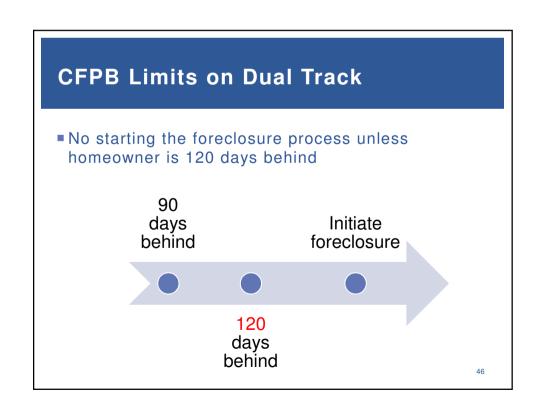
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Respond to Requests for Information

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







CFPB Limits on Dual Track



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

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CFPB Limits on Dual Track

Application submitted 37+ days before sale 30 days to review borrower's docs

Foreclosure Sale Date

Appeal Denial of Loan Modification



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

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Appeal Denial of Loan Modification



Escalating Problem Cases

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Before You Escalate

- In-house escalation process
- Authorization form



- **Copy** of denial notice (if applicable)
- Timeline and notes on servicing of loan or processing of application

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Whom to go	to for what	
Agency or Organization	How can this agency help?	Contact Information
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) maintain a website with link to each state attorney generals'. Go to: www.naag.org
Consumer Financial Protection Bureau	CFPB will accept complaints regarding servicer misconduct	P.O. Box 4503 lowa City, lowa 52244 Phone: (855) 411-2372 Go to: www.consumerfinance.gov/complaint
Office of Mortgage Settlement Oversight	OSMO was created under the terms of the Settlement to monitor servicers' compliance with servicing standards and other terms of the settlement	There is a form on OSMO's website for advocates and professionals to report inappropriate servicer conduct. Go to: www.mortgageoversight.com
HUD	HUD accepts complaints regarding the servicing of FHA-insured loans	Oklahoma City Field Office 301 NW 6th Street, Suite 200 Oklahoma City, OK 73102 Phone: (405) 609-8509

Whom to go to for what

Agency or Organization	How can this agency help?	Contact Information
HUD Office of Fair Housing and Equal Opportunity (FHEO)	Will process complaints regarding discrimination related to housing	Phone: 1-800-669-9777 Website: http://portal.hud.gov/hudportal/HUD?src =/topics/housing_discrimination
Department of Treasury	For HAMP related complaints	HAMP Solution Center Phone: 1-866-939-4469 Fax: 1-240-699-3883 E-mail: escalations@hmpadmin.com
Fannie Mae	Loans owned or guaranteed by Fannie Mae	Phone: 1-800-738-6643 E-mail: resource_center@fanniemae.com
Freddie Mac	For loans owned or guaranteed by Freddie Mac	Phone: 1-800-373-3343 Website: www.freddiemac.com/mymortgage

Tips for Counselors: Escalation

- One bite at apple
 - Bring up all issues related to the loan account
- Review notice of denial
- Review account summary
- Request copy of fee schedule
- Use state attorneys general or others to mediate
- Use the Checklist



Using the Checklist To Help Homeowners

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Case Study



Sally Homeowner sent in numerous loan modification packages, starting when she was 60 days behind. While Sally waited for a response, the servicer filed foreclosure.

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

Sally requested and submitted the new workout package as recommended. The servicer finally confirmed receipt of the application.

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

Which of the following NMS servicing standards were not met?

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

Case Study

Sally Homeowner sent in numerous loan modification packages, starting when she was 60 days behind. While Sally waited for a response, the servicer filed foreclosure.

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

Which of the following NMS servicing standards were not met?

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

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Case Study

The servicer's attorney quickly <u>filed for judgment and requested a sale</u> date while the application was still under review.

Which of the following NMS servicing standards were not met?

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

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

NMS Housing Counselor Checklist

- Streamlined reporting tool
- Escalation tool for resolving client complaints



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NMS Checklist Homepage

National Mortgage Settlement Housing Counselor Checklist

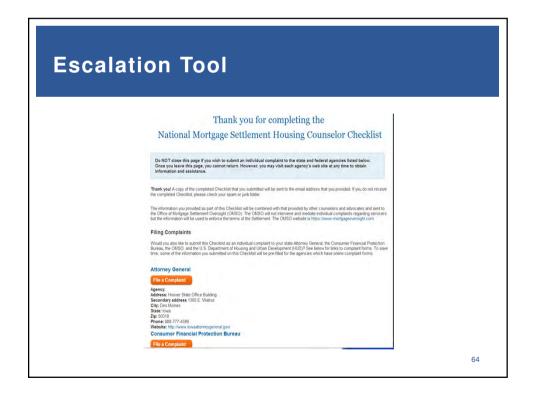
About the National Mortgage Settlement

- better communication with borrowers;
 a single point of contact;
 adequate staffing levels and training; and
 appropriate standards for executing documents in foreclosure cases.

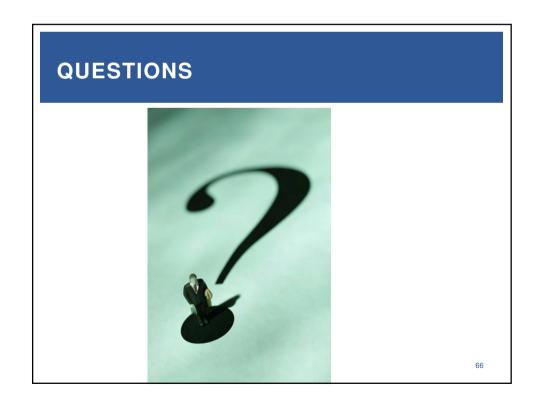
The standards also place restrictions on proceeding with foreclosure when a loan modification application is pending

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

NMS Loan Checklist 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 3. Single Point of Contact (SPOC) III 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. 4. Borrower's payment to mortgage servicer not accepted. 5. Dost 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. E Loan Modification Timeline 13. Appeal of Loan Modification Denial 14. Short Sales 15. Credit Reporting 16. Military Personnel



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National Consumer Law Center and the National Housing Resource Center	
NCLC sus@ncic.org.com> To: kouse@ncic.org	Tue, May 7, 2013 at 12:59 PM
Thank you for completing the Checklist. Here is the information that you submitted	
Counselor Information:	
OCUPATION: housing_counselor	
NAME: Jane Smith	
PHONE: 5152815497	
EMAIL: passe@noic.org	
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	



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Please participate in the evaluation survey

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