FACT SHEET: ENHANCED NON-PERFORMING LOAN SALE GUIDELINES

NON-PERFORMING LOAN SALES

BACKGROUND

On April 14, 2016, the Federal Housing Finance Agency (FHFA) announced additional enhancements to its requirements for sales of non-performing loans (NPLs) by Freddie Mac and Fannie Mae (the Enterprises) that build on the requirements originally announced in March 2015.

The additional requirements do the following: 1) establish that NPL buyers must evaluate underwater borrowers for modifications that include principal and/or arrearage forgiveness; 2) forbid buyers from "walking away" from vacant homes; and 3) establish more specific proprietary loan modification standards for NPL buyers.

The new enhanced NPL sale requirements draw upon the experience of sales of NPLs over the past year. As of the end of February 2016, Fannie Mae and Freddie Mac had sold over 29,000 mortgages with a total unpaid principal balance of $5.8 billion.

FHFA believes that the sale of severely delinquent loans through NPL sales will improve borrower and neighborhood outcomes and will reduce Enterprise losses while reducing risk to taxpayers.

The loans included in NPL sales will generally be severely delinquent. Loans already sold have been, on average, three years delinquent. FHFA's goal is to achieve more favorable outcomes for the Enterprises and for borrowers by providing alternatives to foreclosure wherever possible. Reporting by servicers on borrower outcomes will be required. This will allow FHFA, the Enterprises and the public to evaluate outcomes.

KEY ELEMENTS OF ENHANCED NPL SALE GUIDELINES

NPL buyers must evaluate borrowers whose mark-to-market loan-to-value ratio is over 115 percent for modifications that include principal reduction and/or arrearages forgiveness.

NPL buyers may not "walk away" from vacant properties.

Proprietary modifications must be fixed rate or offer an initial period of reduced payments with limits on subsequent increases consistent with HAMP requirements – the initial fixed-rate period must last for at least 5 years, and rate increases are limited to 1 percent per year thereafter.

ENHANCED NPL SALE GUIDELINES

- **Bidder qualifications:** Bidders will be 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;
- **Modification requirements:**
  - The new servicer will be required to evaluate all borrowers whose loans were originated on or before January 1, 2009 (other than those whose foreclosure sale date is imminent or whose property is vacant) for the U.S. Department of the Treasury's Home Affordable Modification Program (HAMP). All borrowers whose loans were originated after January 1, 2009 (other than those with an imminent foreclosure sale date or vacant property) must be evaluated for a proprietary modification.
  - For borrowers with a mark-to-market loan-to-value ratio above 115 percent, servicers will be required to evaluate these borrowers for loan modifications (HAMP or proprietary) that include principal and/or

arrearage forgiveness. Servicers may consider net present value to the investor in establishing the waterfall for implementation.

- Proprietary modifications must not include an upfront fee or require prepayment of any amount of mortgage debt, and must provide a benefit to the borrower with the potential for a sustainable modification. 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 HAMP requirements – the initial period must last for at least 5 years and interest rate increases may not exceed 1 percent per year thereafter.

- **Loss mitigation waterfall requirements:** Servicers must apply a waterfall of resolution tactics that includes evaluating borrower eligibility for a loan modification (HAMP and/or proprietary modification) first, 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;

- **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 must 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. 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;

- **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 will provide public reports on aggregate borrower outcomes at the pool level.