



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

September 1, 2015

MORTGAGEE LETTER 2015-18

To **All Approved Mortgagees**

Subject **Single Family Partial Claim Documentation and Delivery Requirements**

Purpose The purpose of this Mortgagee Letter is to:

- Remind mortgagees of the procedures for preparing and submitting Partial Claim documents to HUD;
- Revise the required timeframe for mortgagees to submit to HUD the original promissory note associated with a Partial Claim; and
- Describe the penalties for a mortgagee's noncompliance with HUD's Partial Claim requirements at 24 CFR § 203.371 and other published guidance.

Effective Date This Mortgage Letter is effective immediately for all Partial Claim documents executed on or after September 1, 2015.

Affected Policy The policies set forth in this Mortgagee Letter modify or supersede, where there is conflict, Mortgagee Letters 2013-32, 2013-19, 2012-22, 2009-23, 2008-21, and 2003-19 (Sections H, Q, and R).

Background on Documentation of Partial Claims To ensure that the Secretary of HUD's interest is protected, proper recordation and submission of a mortgagee's Partial Claim documentation is essential. Currently, FHA has a high volume of missing Partial Claim documents due to mortgagees' failure to comply with HUD's procedures for recording and submitting security instruments.

Procedures for preparing Partial Claim documents and delivering such documents to HUD's loan servicing contractor within the timeframes required by HUD's regulations are reiterated and revised where appropriate in this Mortgagee Letter. Failure to provide proper documentation within the required timeframes may result in such sanctions as the mortgagee having to reimburse HUD the full amount of the Partial Claim and/or the mortgagee being referred to the Mortgagee Review Board.

Required Documentation for Partial Claims

A promissory note must be executed in the name of the Secretary, and a Partial Claim mortgage must be prepared and recorded. The Partial Claim promissory note and mortgage/deed of trust must include:

- The full FHA Case Number;
- The provisions of HUD’s model Partial Claim promissory note and partial claim mortgage; and
- Any amendments as required by state laws.

HUD’s model Partial Claim promissory note and mortgage can be found at http://portal.hud.gov/hudportal/documents/huddoc?id=SFH_FHA-HAMPParClaimSubMgt.pdf While HUD provides a model Partial Claim mortgage and note, mortgagees must review these documents, make modifications as needed to comply with applicable state and local requirements, and have their counsel review these documents for legal sufficiency.

Legal Fees and Foreclosure Costs for Partial Claims

Legal fees and foreclosure costs actually incurred as of the date of the foreclosure cancellation can be included in the Partial Claim amount. However, in no case will FHA reimburse attorney’s fees in excess of the amounts reflected in HUD’s Schedule of Attorney Fees. Likewise, any amounts claimed for an incomplete foreclosure must be for work actually performed. If cancelled foreclosure fees/costs are included in the Partial Claim amount, they cannot be included in subsequent disposition claims (e.g., Conveyance Claims, Assignment Claims associated with FHA’s 601 Note Sales Program, Claims Without Conveyance of Title, or Pre-foreclosure Sale Claims).

Execution of Partial Claim Documents

If a Partial Claim is accompanied by a modification, the mortgagor must successfully complete a Trial Payment Plan (per Mortgagee Letter 2013-32) before the final execution of a promissory note and mortgage associated with the Partial Claim. If a standalone Partial Claim is being used pursuant to Mortgagee Letter 2013-32, a Trial Payment Plan must also be successfully completed prior to executing the final documents.

HUD must receive the original Partial Claim promissory note within **60 days** of the execution of the documents by the mortgagor and the recorded Partial Claim mortgage/deed of trust within **6 months** of the execution of the security instrument. Mortgagees must retain a copy of these documents in their servicing files, including evidence that they submitted the mortgage/deed of trust for recording (in the applicable jurisdiction) no less than 5 business days from the receipt of the executed promissory note from the borrower and prior to filing a Claim for Insurance Benefits with HUD. Mortgagees should document the date they receive the executed Partial Claim documents from

the borrower and the date that they send the subordinate mortgage to be recorded.

Reconciliation of Partial Claim Proceeds to Promissory Note Amounts

Mortgagees are responsible for ensuring the accuracy of the promissory note and Partial Claim mortgage prior to filing a Claim for Insurance Benefits. Mortgagees are also responsible for reconciling the Partial Claim proceeds received from HUD with the promissory note amount.

In the event the mortgagee miscalculated the Partial Claim amount, resulting in it receiving an overpayment, the mortgagee must remit the overpaid amount immediately to HUD's loan servicing contractor as a payment to reduce the balance of the borrower's debt to HUD. In the event the mortgagee claimed less than the actual Partial Claim note amount, the mortgagee must absorb the cost of the miscalculation and shall not add the deficient note amount to the mortgagor's loan balance. In addition, no corrective Partial Claims will be accepted.

The Partial Claim documentation received by HUD must always support the amount claimed by the mortgagee. Partial Claim documents received by HUD that do not fully support the amount claimed by the mortgagee will be considered incomplete and, unless corrected, will not satisfy the deadlines for mortgagees to provide complete Partial Claim documents to HUD's loan servicing contractor in accordance with the "Delivery of Partial Claim Documents" provisions herein. As a reminder, mortgagees must include their review process for ensuring the accurate calculation of Partial Claims in their required Quality Control (QC) Plan.

Delivery of Partial Claim Documents

Mortgagees are responsible for delivering to HUD's loan servicing contractor the original promissory note no later than 60 days from the execution date of the Partial Claim and the recorded mortgage/deed of trust no later than 6 months from the execution date of the Partial Claim. The following is the contact information for HUD's loan servicing contractor:

Novad Management Consulting
Department of Housing and Urban Development
2401 NW 23rd Street, Suite 1A1
Oklahoma City, OK 73107
Office: (877) 622-8525
Fax: (800) 489-1733
www.novadconsulting.com

Mortgagees **must** use a Cover Letter, listing the FHA Case Numbers of the documents in each box being delivered to HUD's loan servicing contractor. The mortgagee may use the monthly Missing Documents' Report to determine if there are any Partial Claims that are missing and outside of the

aforementioned delivery timelines. HUD's loan servicing contractor may follow-up with the mortgagee if there are any discrepancies between the mortgagee's Cover Letter and documents received.

Requests for Extensions of Time for Delivery of Documents

Mortgagees must periodically check on the status of all unreturned recorded Partial Claim mortgages. When recorded mortgages cannot be forwarded to HUD timely due to delays in a Land Records' Office, mortgagees must request an extension of time from HUD's National Servicing Center (NSC). The NSC may *only* grant extensions of time when document delivery is delayed by events beyond the mortgagee's control.

For Partial Claim mortgages only, extension requests must be submitted through HUD's Extensions and Variances Automated Requests System (EVARS). Using EVARS, mortgagees must check Box 7, "Unable to submit recorded partial claim mortgage within 6 months of execution § 203.371," and enter the number of days needed to meet HUD's delivery requirements. In addition, under the section "Basis for Extension Request," the mortgagee must indicate the reason for the delay.

Extensions for Partial Claim promissory notes are not allowed.

Mortgagee Reimbursement of Full Claim Amount

In addition to the aforementioned sanctions, pursuant to 24 CFR § 203.371(d), if the mortgagee does not provide HUD with the original promissory note and mortgage related to the Partial Claim within the prescribed deadlines (i.e., 60 days and 6 months, respectively), the mortgagee will be required to reimburse the full claim amount, including the incentive fee.

The full claim amount is the amount of the FHA Claim for Insurance Benefits consisting of the arrearage, principal deferment (if necessary), and any HUD-allowed costs, which were paid via the mortgagee's claim.

When a mortgagee is required to reimburse HUD for the full amount of a Partial Claim, HUD will endorse the promissory note over to the mortgagee and HUD will provide an executed mortgage assignment to the mortgagee. The mortgagee must record or send the assignment for recording within 30 business days of receipt from HUD. The mortgagee will then be fully responsible for collecting their Partial Claim funds. Mortgagees shall not reverse the application of the Partial Claim funds as the only recourse to the borrower is repayment of the Partial Claim funds under the original terms of the Partial Claim note and subordinate mortgage. When full repayment of the Partial Claim has been completed, HUD will no longer accept any documentation regarding the Partial Claim and HUD will not refund any funds to the mortgagee.

**Enforcement
Timeline**

Subsequent to the Effective Date of this Mortgagee Letter, HUD will begin issuing demand letters for the full reimbursement of all amounts associated with overdue Partial Claim documents.

**Information
Collection**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Numbers 2502-0429 and 2502-0589. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

Questions

Any questions regarding this Mortgagee Letter may be directed to HUD's NSC at (877) 622-8525. Persons with hearing or speech impairments may reach this number by calling the Federal Information Relay Service at (800) 877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature

Edward L. Golding
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