

Federal Reserve Bank of San Francisco
101 Market Street, San Francisco, California 94105

July 25, 2012

To State Member Banks, Bank
Holding Companies, Financial Holding
Companies, Savings and Loan Holding Companies,
and Foreign Banking Offices
in the Twelfth Federal Reserve District

SR 12-11 / CA 12-10 Guidance on a Lender's Decision to Discontinue Foreclosure Proceedings

The Federal Reserve is issuing this guidance to emphasize the importance of appropriate risk management practices and controls in connection with a decision not to complete foreclosure proceedings after they have been initiated (a situation referred to in this guidance as an abandoned foreclosure). This guidance applies to state member banks, bank holding companies and savings and loan holding companies (collectively, banking organizations) with residential mortgage servicing operations. Information obtained on mortgage industry practices has revealed that lenders and servicers sometimes discontinue a foreclosure process without notification to borrowers or local authorities, which can raise a number of issues.¹ Banking organizations with residential mortgage servicing operations should ensure that the following key concepts are addressed in their policies and practices governing abandoned foreclosures:

- *Notification to Borrowers.* Supervised banking organizations should notify the borrower(s) when a decision is made not to pursue a foreclosure action, and should inform the applicable borrower(s) of their (1) rights to occupy their property until a sale or other title transfer action occurs, (2) financial obligations regarding the outstanding loan balance and the payment of applicable taxes and insurance premiums, and (3) property maintenance responsibilities.
- *Communications.* Supervised banking organizations should use all means possible to provide the notification described above to affected borrowers, particularly those who prematurely vacated their homes based on the servicers' initial communications regarding foreclosure actions. In particular, when attempting to provide the notification, supervised organizations should employ the same extensive methods they use to contact borrowers in connection with payment collection activities.
- *Notification to Local Authorities.* Supervised banking organizations should ensure that their procedures include reasonable efforts to notify appropriate state or local government authorities of the organization's decision to not pursue a foreclosure, including complying with applicable state or local government notification requirements. These local entities may include tax authorities, courts, or code enforcement departments.
- *Obtaining and Monitoring Collateral Values.* Supervised banking organizations should have a process for obtaining the best practicable information on the collateral value of a residential property that may be subject to foreclosure, updating this information on a regular basis and using current information in their assessment as to whether to initiate, continue, or abandon a foreclosure proceeding.²

¹ The Government Accountability Office (GAO) released a study that discusses the scope of the issues that abandoned foreclosures pose for borrowers, communities, local governments, lenders, and servicers. This report, GAO-11-93, *Mortgage Foreclosures: Additional Mortgage Servicer Actions Could Help Reduce the Frequency and Impact of Abandoned Foreclosures*, is available on the GAO public website at <http://www.gao.gov/new.items/d1193.pdf>

² Refer to SR letter 10-16, "Interagency Appraisal and Evaluation Guidelines," for supervisory expectations for a regulated banking organization's policies and procedures on collateral monitoring in support of its loan modification or workout activity.

Supervisory Process

The objective of the supervisory process related to abandoned foreclosures is to confirm that a banking organization manages its decisions to initiate and/or discontinue foreclosure proceedings in a prudent manner. The attached examination procedures outline the review of an organization's abandoned foreclosure practices that will be considered by safety-and-soundness and consumer compliance examiners. In particular, safety-and-soundness examiners will determine if an organization's policies and procedures include regular monitoring of property values. This review may be done as part of the regular assessments of banking organizations' appraisal and evaluation programs.

Consumer compliance examiners will determine if the organization took appropriate steps to notify property owners and local authorities of a decision to discontinue a foreclosure proceeding, provided appropriate training to its staff, and conducted appropriate oversight of third party foreclosure service providers to ensure compliance with these guidance requirements. In addition, consumer compliance examiners will determine if the organization's decision-making process for initiating and discontinuing a foreclosure proceeding reflects responsible, prudent business practices that consider the current collateral property value and effect of foreclosure abandonment on property owners, local authorities, and other interested parties, and minimizes any potential adverse effects.

Please review and disseminate this guidance within your organization as appropriate. For questions concerning consumer compliance issues, please contact Mayank Patel, Senior Supervisory Consumer Financial Services Analyst, Division of Consumer and Community Affairs, at (202) 452-2316. Questions concerning appraisals and collateral valuation issues should be directed to Carmen Holly, Supervisory Financial Analyst, Credit, Market and Liquidity Risk Policy, Division of Banking Supervision and Regulation, at (202) 912-4611.

In addition, questions may be sent via the Board's public website.³

Additional Information

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's website, at <http://www.frbsf.org/banking/letters>.

For additional information regarding the supervisory process, please contact:

Federal Reserve Bank of San Francisco
Safety and Soundness
(213 364-1026)
Consumer Compliance
(801) 322-7853

Attachment: *Examination Procedures For Reviewing a Banking Organization's Abandoned Foreclosures Process*

Cross References:
SR letter 10-16, "Interagency Appraisal and Evaluation Guidelines"

³ <http://www.federalreserve.gov/apps/contactus/feedback.aspx>.