



Freddie Mac Standard Short Sale Overview for Housing Counselors

Maryland Housing Counseling Network “Counselor Connection”

May 14, 2013 – Baltimore, Maryland

Presenter: Robin Stout Migala

Reminders

- This training is a summary of the detailed requirements of the *Single-Family Seller/Service Guide* (“the Guide”) relating to the Freddie Mac Standard Short Sale and is not a substitute for those requirements.
- It is meant for educational purposes only. For additional information, please reference the applicable sections of the Guide.



Guide – <http://www.freddiemac.com/singlefamily> - then click on AllRegs

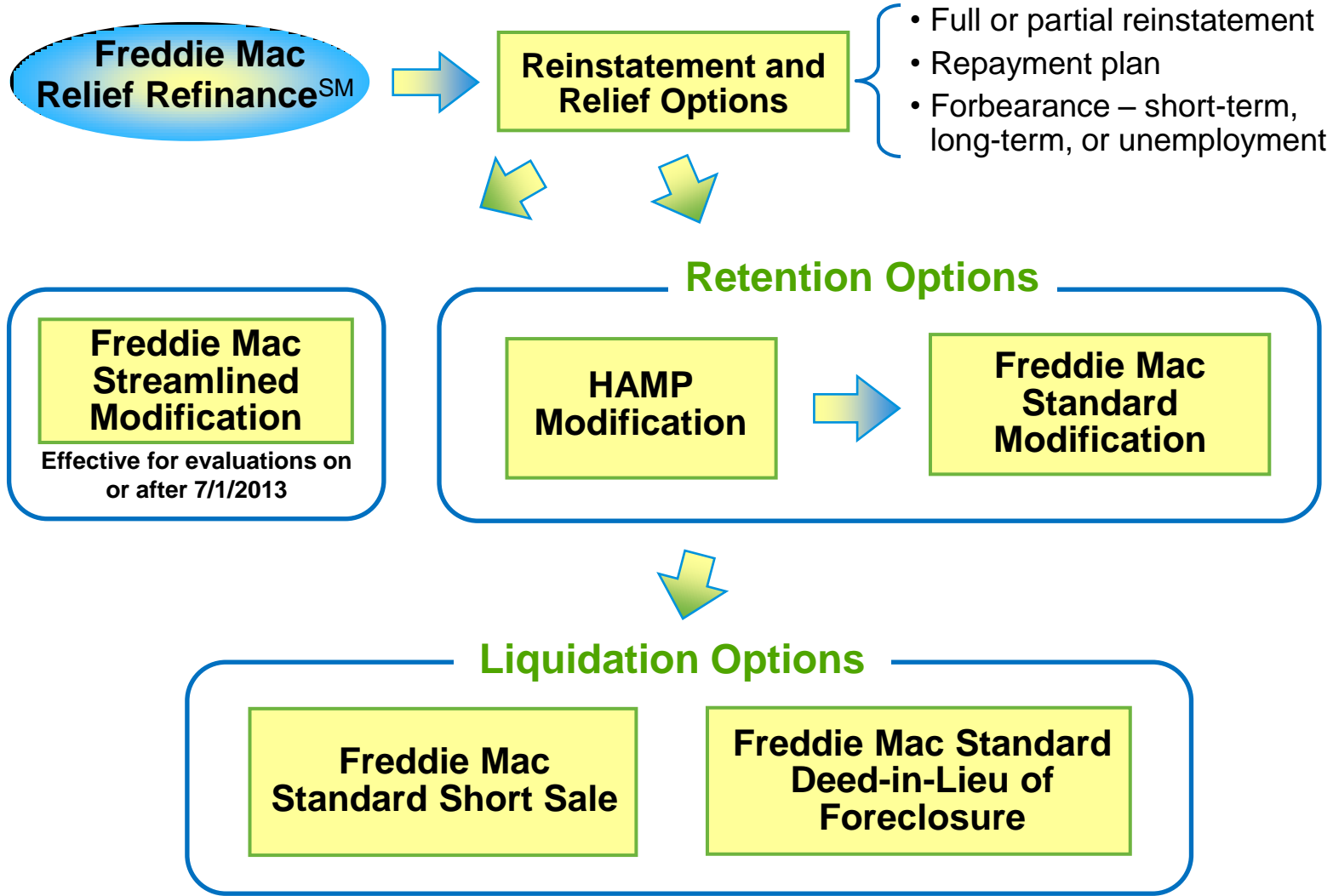
Foreclosure Sale Postponement

- Effective immediately, we have eliminated the requirement for Servicers to obtain written approval from Freddie Mac to postpone a foreclosure sale for mortgages that are more than 12 months delinquent.
 - » Servicers now have delegated authority to postpone any foreclosure sale if they have determined that doing so will protect Freddie Mac's interests.



66.32.1 - Foreclosure Sale Postponements

Alternatives to Foreclosure Hierarchy

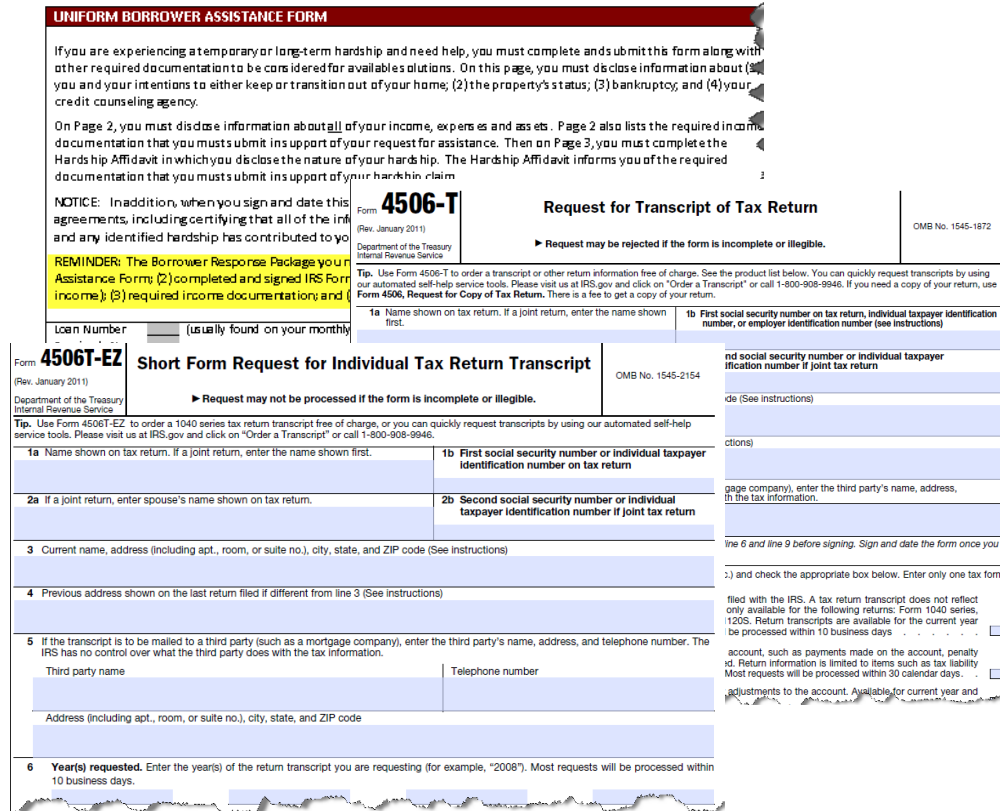


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Guide Section 64.6 - Evaluation hierarchy, borrower solicitation and communication – 07-01-13

Documentation Requirements

- A complete **Borrower Response Package (BRP)** includes:
 - Completed and signed Uniform Borrower Assistance Form (Form 710) or a customized equivalent
 - Income and hardship documentation
 - Completed and signed IRS Form 4506T-EZ, Short Form Request for Individual Return Transcript
- **Credit Report**
 - Occupancy
 - Debt payments
 - New mortgages, if applicable
- **Property Valuation / Broker Price Opinion (BPO)**



UNIFORM BORROWER ASSISTANCE FORM

If you are experiencing a temporary or long-term hardship and need help, you must complete and submit this form along with other required documentation to be considered for available solutions. On this page, you must disclose information about (1) you and your intentions to either keep or transition out of your home; (2) the property's status; (3) bankruptcy; and (4) your credit counseling agency.

On Page 2, you must disclose information about all of your income, expenses and assets. Page 2 also lists the required income documentation that you must submit in support of your request for assistance. Then on Page 3, you must complete the Hardship Affidavit in which you disclose the nature of your hardship. The Hardship Affidavit informs you of the required documentation that you must submit in support of your hardship claim.

NOTICE: In addition, when you sign and date this agreement, including certifying that all of the information and any identified hardship has contributed to your hardship claim.

REMINDER: The Borrower Response Package you must submit includes: (1) completed and signed Uniform Borrower Assistance Form; (2) completed and signed IRS Form 4506T-EZ; (3) required income documentation; and (4) completed and signed Hardship Affidavit.

Form 4506-T
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

Request for Transcript of Tax Return
OMB No. 1545-1872

▶ Request may be rejected if the form is incomplete or illegible.

Tip. Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Order a Transcript" or call 1-800-908-9946. If you need a copy of your return, use Form 4506, Request for Copy of Tax Return. There is a fee to get a copy of your return.

1a Name shown on tax return. If a joint return, enter the name shown first.

1b First social security number on tax return, individual taxpayer identification number, or employer identification number (see instructions).

2a If a joint return, enter spouse's name shown on tax return.

2b Second social security number or individual taxpayer identification number if joint tax return.

3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code (See instructions).

4 Previous address shown on the last return filed if different from line 3 (See instructions).

5 If the transcript is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number. The IRS has no control over what the third party does with the tax information.

Third party name _____ Telephone number _____

Address (including apt., room, or suite no.), city, state, and ZIP code _____

6 Year(s) requested. Enter the year(s) of the return transcript you are requesting (for example, "2008"). Most requests will be processed within 10 business days.

Form 4506T-EZ
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

Short Form Request for Individual Tax Return Transcript
OMB No. 1545-2154

▶ Request may not be processed if the form is incomplete or illegible.

Tip. Use Form 4506T-EZ to order a 1040 series tax return transcript free of charge, or you can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Order a Transcript" or call 1-800-908-9946.

1a Name shown on tax return. If a joint return, enter the name shown first.

1b First social security number or individual taxpayer identification number on tax return.

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Guide Section 64.6 - Evaluation hierarchy, borrower solicitation and communication – 07-01-13

Survey Question

Q: When is the Freddie Mac Standard Short Sale effective?

- » A. Immediately
- » B. November 1, 2012
- » C. January 1, 2013



Standard Short Sale Eligibility Requirements



Occupancy

Current
or <31 Days
Delinquent

Primary

31-90+ Days
Delinquent

All occupancy
types eligible

Back-End DTI Criteria

Current
or <31 Days
Delinquent

Back-end ratio > 55% (Service
Members with PCS Orders exempt
from back-end DTI criteria.)

31-90+ Days
Delinquent

N/A

Delegated / Non-delegated

Current
or <31 Days
Delinquent

Delegated: Death, divorce (includes legal separation and separation of borrowers unrelated by marriage, civil union or similar domestic partnership under applicable law), long-term/ permanent disability, distant employment transfer including PCS (> 50 miles one-way)

Non-delegated: Other hardships (Guide Section 65.17 (a), same as Form 710. Hardships not listed requires written explanation from the borrower

31-90+ Days
Delinquent

Delegated

B65.36 - Short Sale Eligibility Requirements and Servicer Approval Authority (11-01-12)

Standard Short Sale Eligibility Requirements (cont'd)



Mortgages

- First-lien mortgages owned, guaranteed, or securitized by Freddie Mac
- FHA, VA, and RHS guaranteed mortgages are eligible, subject to the relevant agency's guidelines.
- MI prior approval or delegated per the Service Loans application
- Per Section B65.36 if the mortgage is subject to recourse or indemnification the servicer may approve a short sale provided the servicer reports and remits a full payoff to Freddie Mac and absorbs any losses and expenses related to the delinquency.
- *New Mortgages* not allowed during hardship; however, as an exception if the hardship is due to distant employment transfer, relocation due to new employment or PCS the Servicer is Delegated to approve if the new mortgage is for borrowers 90 or more days delinquent

Relocation Assistance

Current thru
90+ Days
Delinquent

- Borrower occupants who are not required to contribute may receive up to \$3,000 relocation assistance, minus any relocation assistance received from other sources provided they occupy the property as their primary residence at the time of evaluation
- Borrowers subject to PCS orders will not be eligible for relocation assistance as the government assists in defraying the costs of the service member's relocation

B65.36 - Short Sale Eligibility Requirements and Servicer Approval Authority (11-01-12)
B65.44.1 - Borrower Contribution and Relocation Assistance (03-01-13)

Contribution

Current
or <31 Days
Delinquent

Cash contribution in accordance with Guide B65.37.

31-90+ Days
Delinquent

Cash and /or promissory note using guidance provided in Guide B65.37.

90+ Days
Delinquent

And a credit score less than 620 at the time of evaluation, no contribution is required

Permanent Change of Station

Current thru
90+ Days
Delinquent

Service Members with PCS orders not required to provide cash or promissory note contribution (for one primary residence purchased on or before June 30, 2012).

B65.44.1 - Borrower Contribution and Relocation Assistance (03-01-13)

Survey Question

- Q: Servicers are now delegated to approve all requests for the Standard Short Sale.

Is this correct?



Determine if Transaction Meets MNP

Determining an acceptable transaction

- ◆ Minimum acceptable net proceeds are met or exceeded
and
- ◆ Allowable transaction costs reasonable

Total Net Proceeds

Example:

Gross sales price (purchase offer) $\text{\$107,500}$

Minus allowable transaction costs $-10,750$

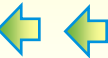
Minus the maximum amount paid to subordinate lienholders $-4,000$

Minus borrower relocation, if applicable $-3,000$

Total net proceeds: $\text{\$89,750}$

Up to an aggregate of \$6,000

Up to a maximum of \$3,000 if applicable



B65.40 - Short Sale Transaction and Processing Requirements (11-01-12)

New Technology Using Service Loans

Servicers must retrieve a property value and minimum net proceeds by using the new **Obtain Valuation** functionality which provides:

- » The **estimated market value** of a subject property, which servicers should use to provide listing price guidance to the borrower and real estate broker
- » A **minimum net proceeds amount**, which is the minimum amount that Freddie Mac will accept upon closing, regardless of the sales price. The Servicer may not divulge the minimum net proceeds amount to any other parties including, but not limited to, the borrower, real estate broker, or housing counselor



B65.38 – Property valuation and minimum net proceeds

Short Sale Communication Time Lines



Short sale: Submission of purchase offer and Servicer decision	
Days	Action required
3 Business Days	The Servicer must acknowledge receipt of the purchase offer within three Business Days
30 days (no later than 60 days)	<ul style="list-style-type: none"> ▪ The Servicer must respond to the Borrower with a purchase decision within 30 days of receipt of the purchase offer. ▪ If the purchase offer does not meet Freddie Mac's minimum net proceeds threshold, the Servicer must notify the Borrower and include an acceptable counteroffer in its response. ▪ If the Servicer is unable to provide a decision within 30 days following receipt of a purchase offer, then the Servicer must: <ul style="list-style-type: none"> ➤ Notify the Borrower within the 30 day time limit that the purchase offer is still under review; and ➤ Provide the Borrower a status update each week thereafter indicating the reason(s) why a decision is pending. However, the Servicer must provide the Borrower with a decision no later than 60 days after receipt of a purchase offer.
Short sale: Counteroffers (if purchase offer is less than the minimum net proceeds)	
Days	Action required
5 Business Days	The Borrower must respond to the Servicer's counteroffer within five Business Days of the date the counteroffer is received
10 Business Days	The Servicer must respond to the Borrower within 10 Business Days of receipt of the Borrower's response to the counteroffer

B65.39 – Communication time lines

Survey Question

- Q: Borrowers are only required to contribute to the loss under certain conditions.

Is this correct?



Short Sale Closing Requirements

No Sales Proceeds/Commissions

Arms Length Transaction

Resale Restrictions

Payments to Subordinate Lienholders

HUD-1/Closing Follow-up

Release of Deficiency

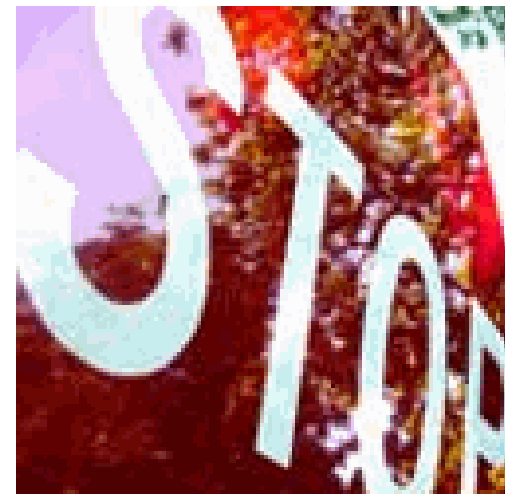
Short Sale Closing Requirements

No Sales Proceeds/Commissions

Neither the borrower(s) nor the purchaser(s) will receive any funds or commissions from the sale of the mortgaged premises. The borrower may receive a payment if it is offered by the Servicer, approved by Freddie Mac and reflected on the HUD-1 Settlement Statement.

Unless a real estate broker's sales commission exceeds six percent of the homeowner's mortgage, Servicers cannot renegotiate a lower sales commission.

B65.40(a) – Sales proceeds
B65.40(e) – Real estate broker commissions



Short Sale Closing Requirements

Arms Length Transaction

An "arm's length transaction" is a transaction between parties who are independent of one another, and unrelated and unaffiliated by family, marriage or commercial enterprise, other than the purchase and sale of the mortgaged premises between the borrower(s) and the purchaser(s) that is the specific subject of the proposed short sale as disclosed to the Servicer

New Guide Exhibit 97, *Short Sale Affidavit*, a template representative of the short sale affidavit requirements set forth in Section B65.40, *Sales Transaction and Processing Requirements*. Servicers may use the short sale affidavit template when requiring parties to the transaction to attest that the short sale constitutes an "arm's length" transaction.

B65.40(h) - Short sale affidavit




Exhibit 97
Short Sale Affidavit

Servicer: _____ Servicer Loan Number: _____

Address of Property: _____

Date of Purchase Contract: ____/____/____ Investor: _____

Seller: _____ Buyer: _____

Seller: _____ Buyer: _____

Seller's Agent/Listing Agent: _____ Buyer's Agent: _____

Escrow Closing Agent: _____ Transaction Facilitator (if applicable): _____

This Short Sale Affidavit ("Affidavit") is given by the Seller(s), Buyer(s), Agent(s), and Facilitator to the Servicer and the Investor of the mortgage loan secured by the Property ("Mortgage") in consideration for the mutual and respective benefits to be derived from the short sale of the Property.

NOW, THEREFORE, the Seller(s), Buyer(s), Agent(s), and Facilitator do hereby represent, warrant and agree under the pains and penalties of perjury, to the best of each signatory's knowledge and belief, as follows:

(a) The sale of the Property is an "arm's length" transaction, between Seller(s) and Buyer(s) who are unrelated and unaffiliated by family, marriage, or commercial enterprise;

Short Sale Closing Requirements

Resale Restrictions

- The Servicer must instruct the settlement agent to:
 - » Ensure the deed conveying the mortgaged premises from the borrower to the purchaser contains a provision to restrict any re-sale of the mortgaged premises for 30 days following the short sale closing.
 - » Restrict re-sales of greater than 120% of the short sale's sales price for the period beginning 31 days after the short sale closing and ending 90 days from the short sale closing.
- The deed must contain the following provision:



Grantee herein is prohibited from conveying captioned property for any sales price for a period of 30 days from the date of this deed. After this 30 day period, Grantee is further prohibited from conveying the property for a sales price greater than \$(120% of short sale price) until 90 days from the date of this deed. These restrictions shall run with the land and are not personal to the Grantee.

B65.40(i) – Re-sale deed restriction

Payments to Subordinate Lien Holders

Payment of up to an aggregate of \$6,000 to subordinate lien holders will be offered in exchange for releasing each subordinate lien, extinguishing the underlying debts, and waiving the right to pursue the deficiency.

If there are multiple subordinate lien holders, the Servicer has discretion to divide the \$6,000 payment among them.

Subordinate lienholders may not receive any other payments from the Borrower in connection with the short sale.

B65.40(c) – Payouts to subordinate lien holders

Short Sale Closing Requirements



HUD-1/Closing Follow-up

The Servicer must:

- Maintain the original short sale affidavit in the mortgage file in accordance with the requirements of Section 52.3 and provide Freddie Mac with a copy of the short sale affidavit upon request
- Review the HUD-1 Settlement Statement prior to closing to ensure proper transfer of title directly from the borrower to the buyer
- Review the HUD-1 Settlement Statement and deed within five business days after closing to validate compliance with this chapter and the Servicer's approval instructions, including:
 - » The name of the buyer on the HUD-1 Settlement Statement is the same as shown on the sales contract;
 - » The HUD-1 is consistent with the closing instructions, especially regarding ineligible transfer of title to related parties; and
 - » The deed has been recorded in the name of the buyer and contains resale restriction language as required in Section B65.40(i).

B65.41(a) – Closing, reporting and remittance requirements

Short Sale Closing Requirements

Release of Deficiency

If the borrower has acted in good faith and in compliance with the Guide and all applicable local, state and federal law, then Freddie Mac will not pursue the borrower for the entire amount owed under the current mortgage.

However, if the borrower had knowledge of and/or consented to a transaction that was not in compliance with the Guide and all applicable local, state and federal law, Freddie Mac reserves its rights to pursue any and all participants.

B65.41(f) – Release of deficiency



Survey Question

- Q: In the “Obtain Valuation” process, the Servicer will give guidance to the borrower, realtor or housing counselor, etc. on the estimated market value of the property but not the minimum net proceeds required from sale.

Is this true or false?



- Freddie Mac Standard Short Sale web page
 - FreddieMac.com/singlefamily/service/short_sales.html

- Standard Short Sale Fact Sheet for Housing Counselors
 - http://www.freddie.mac.com/corporate/housingpros/pdf/fm_standard_short_sale.pdf

- Standard Short Sale Fact Sheet for Consumers - English
 - http://www.freddie.mac.com/corporate/housingpros/pdf/short_sale_consumer_fact_sheet.pdf

- Standard Short Sale Fact Sheet for Consumers - Spanish
 - http://www.freddie.mac.com/corporate/housingpros/pdf/short_sale_consumer_fact_sheet_spanish.pdf

- Freddie Mac Loan Lookup

- <https://ww3.freddie.mac.com/corporate/>

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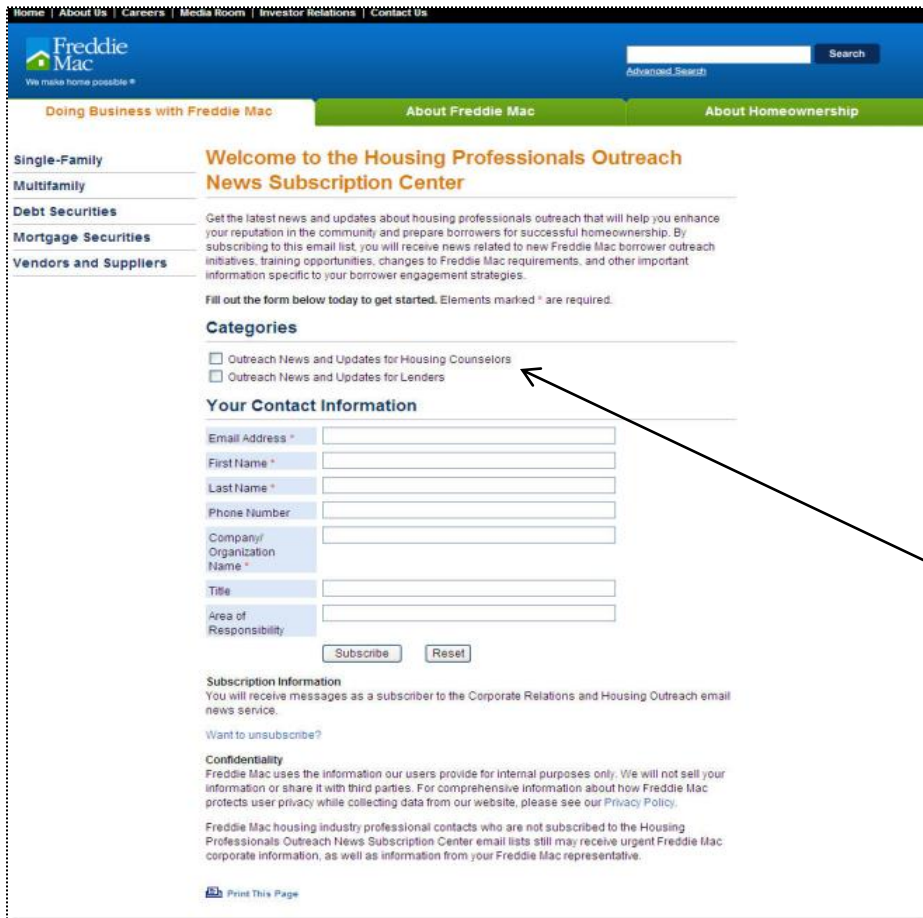
- <http://www.freddie.mac.com/corporate/housingpros/>

- Escalations

- Escalation process located in Guide chapter/section 51.5.1

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Questions?



Thanks for your participation!