

Ann. SEL-2010-08: Underwriting Borrowers with a Prior Foreclosure (06/23/10)

A variety of foreclosure alternatives are available to borrowers who are having difficulty making their mortgage payments. In [Announcement SEL-2010-05, Underwriting Borrowers with a Prior Preforeclosure Sale or Deed-in-Lieu of Foreclosure](#), Fannie Mae announced changes to the policies regarding the amount of time that must elapse after a borrower experiences a preforeclosure event (preforeclosure sale, short sale, and deed-in-lieu of foreclosure). The changes highlighted the importance of borrowers working with their servicers to avoid foreclosure.

As a follow-up to that Announcement, Fannie Mae is now modifying the waiting period that must elapse before a borrower is eligible for a new mortgage loan after a foreclosure. The combination of the waiting period policies for foreclosures and preforeclosure events continue to favor borrowers who work with their servicers to avoid foreclosure by allowing these borrowers to be eligible for a future Fannie Mae loan in a shorter period of time.

This Announcement describes the policy changes in detail. The changes will be reflected in the *Selling Guide*, [B3-5.3-07, Significant Derogatory Credit Events – Waiting Periods and Re-establishing Credit](#), when it is updated on June 30, 2010.

Waiting Period After a Foreclosure

Currently, the waiting period that must elapse after a borrower experiences a foreclosure is seven years. However, Fannie Mae allows a shorter time period – five years – if certain additional requirements are met (e.g., minimum down payment and credit score, and occupancy requirements). These requirements are being modified to remove the five year option. Unless the foreclosure was the result of documented extenuating circumstances, which only requires a three-year waiting period (with additional requirements), all borrowers will now be required to meet a seven-year waiting period after a prior foreclosure to be eligible for a new mortgage loan eligible for sale to Fannie Mae.

The additional requirements that apply to borrowers with documented extenuating circumstances are also being updated to reflect a maximum LTV ratio of the lesser of 90% or the LTV ratio per the Eligibility Matrix for all transactions.

The following table describes the waiting period policy changes for foreclosures:

Derogatory Event	Current Waiting Period Requirements	New Waiting Period Requirements
Foreclosure	5 years Additional requirements apply after 5 years up to 7 years	7 years No additional requirements apply
Exceptions to Waiting Period for Extenuating Circumstances		
Foreclosure	3 years Additional requirements after 3 years up to 7 years: <ul style="list-style-type: none"> • Purchase, principal residence with maximum LTV ratio of lesser of 90% or maximum per the Eligibility Matrix • Limited cash-out refinance, all occupancy types, LTV ratios per the Eligibility Matrix 	3 years Additional requirements after 3 years up to 7 years: <ul style="list-style-type: none"> • Lesser of 90% LTV ratio or maximum per the Eligibility Matrix • Purchase, principal residence • Limited cash-out refinance, all occupancy types

Fannie Mae's policies for extenuating circumstances remain unchanged and are fully described in the *Selling Guide*, [B3-5.3-08, Extenuating Circumstances for Derogatory Credit](#).

Effective Date

This policy is effective for manually underwritten mortgage loans with application dates beginning October 1, 2010. Desktop Underwriter® will be updated in a future release.

Summary – All Waiting Period Requirements

The following table summarizes the waiting period requirements for all significant derogatory credit events. See the *Selling Guide*, [B3-5.3-07](#) for complete details.

Derogatory Event	Waiting Period Requirements	Waiting Period with Extenuating Circumstances
Bankruptcy – Chapter 7 or 11	4 years	2 years
Bankruptcy – Chapter 13	<ul style="list-style-type: none"> • 2 years from discharge date • 4 years from dismissal date 	<ul style="list-style-type: none"> • 2 years from discharge date • 2 years from dismissal date
Multiple Bankruptcy Filings	5 years if more than one filing within the past 7 years	3 years from the most recent discharge or dismissal date
Foreclosure	7 years	3 years Additional requirements after 3 years up to 7 years: <ul style="list-style-type: none"> • 90% maximum LTV ratios⁽¹⁾ • Purchase, principal residence • Limited cash-out refinance, all occupancy types
Deed-in-Lieu of Foreclosure	<ul style="list-style-type: none"> • 2 years – 80% maximum LTV ratios⁽¹⁾ • 4 years – 90% maximum LTV ratios⁽¹⁾ • 7 years – LTV ratios per the Eligibility Matrix 	2 years – 90% maximum LTV ratios ⁽¹⁾
Preforeclosure Sale		
Short Sale		

⁽¹⁾ The maximum LTV ratios permitted are the lesser of the LTV ratios in this table or the maximum LTV ratios for the transaction per the Eligibility Matrix.

Lenders who have questions about this Announcement should contact their Customer Account Team.



B3-5.3-07, Significant Derogatory Credit Events — Waiting Periods and Re-establishing Credit (04/30/2010)

Introduction

This topic contains information on the waiting periods for significant derogatory credit events, including:

- General Information
- Bankruptcy (Chapter 7 or Chapter 11)
- Bankruptcy (Chapter 13)
- Multiple Bankruptcy Filings
- Foreclosure
- Deed-in-Lieu of Foreclosure and Preforeclosure Sale
- Requirements for Re-establishing Credit

General Information

The presence of significant derogatory credit events dramatically increase the likelihood of a future default and represents a significantly higher level of default risk. Examples of significant derogatory credit events include bankruptcies, foreclosures, deeds-in-lieu of foreclosure, preforeclosure sales, and short sales.

Note: The terms "preforeclosure sale" and "short sale" are used interchangeably in this Guide and have the same meaning (see Deed-in-Lieu of Foreclosure and Preforeclosure Sale below).

The lender must determine the cause and significance of the derogatory information, verify that sufficient time has elapsed since the date of the last derogatory information, and confirm that the borrower has re-established an acceptable credit history. The lender must make the final decision about the acceptability of a borrower's credit history when significant derogatory credit information exists.

If not clearly identified in the credit report, the lender must obtain copies of appropriate documentation for the significant derogatory credit event. The documentation must establish the completion date of a previous foreclosure, deed-in-lieu or preforeclosure sale; confirm the bankruptcy discharge or dismissal date; and identify debts that were not satisfied by the bankruptcy. Debts that were not satisfied by a bankruptcy must be paid off or have an acceptable, established repayment schedule.

This topic describes the amount of time that must elapse (the "waiting period") after a significant derogatory credit event before the borrower is eligible for a new loan salable to Fannie Mae. The waiting period commences on the completion, discharge or dismissal date (as applicable) of the derogatory credit event and ends on the application date of the new loan. See [B3-5.3-08, Extenuating Circumstances for Derogatory Credit \(04/01/2009\)](#) for additional information.

Bankruptcy (Chapter 7 or Chapter 11)

A four-year waiting period is required, measured from the discharge or dismissal date of the bankruptcy action.

Exceptions for Extenuating Circumstances

A two-year waiting period is permitted if extenuating circumstances can be documented, and is measured from the discharge or dismissal date of the bankruptcy action.

Bankruptcy (Chapter 13)

A distinction is made between Chapter 13 bankruptcies that were discharged and those that were dismissed. The waiting period required for Chapter 13 bankruptcy actions is measured as follows:

- two years from the discharge date, or
- four years from the dismissal date.

The shorter waiting period based on the discharge date recognizes that borrowers have already met a portion of the waiting period within the time needed for the successful completion of a Chapter 13 plan and subsequent discharge.

A borrower who was unable to complete the Chapter 13 plan and received a dismissal will be held to a four-year waiting period.

Exceptions for Extenuating Circumstances

A two-year waiting period is permitted after a Chapter 13 dismissal, if extenuating circumstances can be documented. There are no exceptions permitted to the two-year waiting period after a Chapter 13 discharge.

Multiple Bankruptcy Filings

For a borrower with more than one bankruptcy filing within the past seven years, a five-year waiting period is required, measured from the most recent dismissal or discharge date.

Note: The presence of multiple bankruptcies in the borrower's credit history is evidence of significant derogatory credit and increases the likelihood of future default. Two or more borrowers with individual bankruptcies are not cumulative, and do not constitute multiple bankruptcies. For example, if the borrower has one bankruptcy and the co-borrower has one bankruptcy this is not considered a multiple bankruptcy.

Exceptions for Extenuating Circumstances

A three-year waiting period is permitted if extenuating circumstances can be documented, and is measured from the most recent bankruptcy discharge or dismissal date. The most recent bankruptcy filing must have been the result of extenuating circumstances.

Foreclosure

A five-year waiting period is required, and is measured from the completion date of the foreclosure action as reported on the credit report or other foreclosure documents

provided by the borrower.

Additional requirements apply after five years up to seven years following the completion date:

- The purchase of a principal residence is permitted with a maximum LTV, CLTV, and HCLTV ratio ("LTV ratios") of the lesser of 90% or the maximum LTV ratios for the transaction per the [Eligibility Matrix](#).
- The minimum representative credit score is the higher of 680 or the minimum credit score for the transaction per the Eligibility Matrix.
- Limited cash-out refinances are permitted for all occupancy types pursuant to the eligibility requirements in effect at that time.

Exceptions for Extenuating Circumstances

A three-year waiting period is permitted if extenuating circumstances can be documented, and is measured from the completion date of the foreclosure action. Additional requirements apply between three and seven years, which include:

- The purchase of a principal residence is permitted with maximum LTV ratios of the lesser of 90% or the maximum LTV ratios for the transaction per the Eligibility Matrix.
- Limited cash-out refinances are permitted for all occupancy types pursuant to the eligibility requirements in effect at that time.

Note: The purchase of second homes or investment properties and cash-out refinances (any occupancy type) are not permitted until a seven-year waiting period has elapsed.

Deed-in-Lieu of Foreclosure and Preforeclosure Sale

These transaction types are completed as alternatives to foreclosure. A deed-in-lieu of foreclosure is a transaction in which the deed to the real property is transferred back to the servicer. A preforeclosure sale or short sale is the sale of a property in lieu of a foreclosure resulting in a payoff of less than the total amount owed, which was pre-approved by the servicer.

The following waiting period requirements apply:

Waiting Period	Additional Requirements
Two years	80% maximum LTV ratios ¹
Four years	90% maximum LTV ratios ¹
Seven years	LTV ratios per the Eligibility Matrix

Exceptions for Extenuating Circumstances

A two-year waiting period is permitted if extenuating circumstances can be documented, with maximum LTV ratios of the lesser of 90% or the maximum LTV ratios for the transaction per the Eligibility Matrix.

¹ The maximum LTV ratios permitted are the lesser of the LTV ratios in this table or the maximum LTV ratios for the transaction per the Eligibility Matrix.

Requirements for Re-establishing Credit

After a bankruptcy, foreclosure, deed-in-lieu of foreclosure, or preforeclosure sale, the borrower's credit will be considered re-established if all of the following are met:

- The waiting period and the related additional requirements are met.
- The loan receives a recommendation from DU that is acceptable for delivery to Fannie Mae or, if manually underwritten, meets the minimum credit score requirements based on the parameters of the loan and the established eligibility requirements.
- The borrower has traditional credit as outlined in [Section B3-5.3, Traditional Credit History](#). Nontraditional credit or "thin files" are not acceptable.

Related Announcements

The table below provides references to the Announcements that have been issued that are related to this topic.

Announcements	Issue Date
Announcement SEL-2010-06	April 30, 2010
Announcement SEL-2010-05	April 14, 2010