

Announcement SVC-2010-18**December 20, 2010****Technology Fees and Foreclosure and Bankruptcy Referrals****Introduction**

This Announcement amends Fannie Mae requirements regarding technology usage and electronic invoice submission charges to attorneys and trustees and foreclosure and bankruptcy referrals.

***Servicing Guide*, Part VII, Section 501.03: Allowable Attorneys Fees, and Part VIII, Section 104.04: Attorney (or Trustee) Fees**

As compensation for servicing mortgages for Fannie Mae, Fannie Mae pays the servicer servicing fees and allows it to retain late charges, fees charged for special services, yield differential adjustments, and, in some cases, either a share or all of any applicable prepayment premiums that Fannie Mae permits under the terms of a negotiated contract. The cost of servicing must be borne by the servicer unless the *Selling Guide* and *Servicing Guide* expressly provide otherwise.

Some servicers have chosen to use technology provided by outsourcing companies or third-party vendors to assist in carrying out their servicing responsibilities. The technology is used to, among other things:

- refer foreclosure and bankruptcy matters to attorneys and trustees,
- exchange documents and information with attorneys and trustees,
- monitor the progress of foreclosure and bankruptcy matters, and
- facilitate the submission and payment of invoices from the attorneys and trustees for fees and expenses incurred as part of the default process.

In addition, under certain arrangements, attorneys and trustees are required to input information directly into the servicer's systems and may be charged fees for data entry or access to those systems. Fannie Mae has required that the fees charged to any attorney or trustee for technology usage or electronic invoice submission in connection with a Fannie Mae loan be reasonable in relation to the benefit received by the attorney or trustee.

In Announcement SVC-2010-10, *Miscellaneous Servicing Policy Changes*, Fannie Mae:

- defined "reasonable" fees that could be charged to and paid by attorneys and trustees;
- provided that any fees for technology usage or electronic invoice submission in excess of the limitations imposed would be the responsibility of the servicer, could not be charged to or paid by the attorneys and trustees, and would not be reimbursed by Fannie Mae; and
- provided that the fees could not be charged as a cost to the borrower.

Technology charges to attorneys and trustees were limited to \$25.00 per loan for the life of a default (including all portions of the foreclosure and bankruptcy process). Fees for the submission of electronic invoices were limited to \$10.00 for the life of the loan, regardless of the number of reinstatements, foreclosure referrals, bankruptcy filings or invoices submitted. The maximum fee was \$5.00 for the submission of electronic invoices relating to a foreclosure (regardless of the number of invoices) and an additional \$5.00 for the submission of electronic invoices if a bankruptcy is filed on the same loan (regardless of the number of invoices).

Amended Requirements and Effective Dates

- In order to avoid any disruption of the processing of Fannie Mae cases, **effective immediately**, servicers must either:
 - ensure that the outsourcing companies or third-party vendors they utilize continue to permit attorneys and trustees to integrate their systems with those of the outsourcing companies or third-party vendors at no additional cost to the attorneys or trustees over and above the \$25.00 Fannie Mae limitation, or
 - make arrangements to pay directly any new costs imposed by the outsourcing companies or third-party vendors for integration that exceed the \$25.00 Fannie Mae limitation.
- **Effective for charges incurred on or after February 1, 2011**, with respect to mortgage loans previously referred to attorneys or trustees as well as mortgage loans referred to attorneys or trustees on or after that date, attorneys and trustees handling Fannie Mae mortgage loans may no longer directly or indirectly be charged any technology or electronic invoice submission fees by the servicer or any outsourcing companies or third-party vendors utilized by the servicer. These charges include, without limitation, any fees charged on a per loan basis, any fees charged on a “click charge” basis, and any fees for entering data into the servicer’s systems or any other systems or for accessing data in the servicer’s systems or any other systems.

Servicers must directly pay any outsourcing companies or third-party vendors utilized by the servicer for any technology or electronic invoice submission fees. Servicers must also ensure that attorneys and trustees are permitted to integrate the systems used by the attorneys and trustees with those of the outsourcer or third-party vendor utilized by the servicer without any cost to the attorney or trustee.

- **For new foreclosure or bankruptcy referrals on or after February 1, 2011**, Fannie Mae will reimburse servicers for technology and electronic invoice submission fees paid by the servicer to an outsourcing company or a third-party vendor up to the amount of the limitations set forth in Announcement SVC-2010-10 and restated above. Any fees paid by the servicer that exceed these limitations must be borne by the servicer. In addition, no portion of the fees for technology usage or electronic invoice submission may be charged as a cost to the borrower or be charged to the attorney or trustee.

Reimbursement Submission

To obtain reimbursement for any technology usage and electronic invoice submission charges paid by the servicer to an outsourcing company or third-party vendor with respect to new foreclosure or bankruptcy referrals on or after February 1, 2011, the servicer should submit a

Cash Disbursement Request ([Form 571](#)) to Fannie Mae in accordance with existing reimbursement guidelines.

Servicers must report such charges by using the Form 571 Reimbursement Line Item “33: Workout Fee” for reimbursement for the technology usage and electronic invoice submission charges. Servicers must note in the comments that reimbursement is sought for “Technology Usage and/or Electronic Invoice Submission Charges” and must identify the outsourcing company or third-party vendor the servicer has paid for such charges. In addition, servicers are required to submit copies of the invoice for each technology usage or electronic invoice submission charge in accordance with the new procedures for submitting Form 571 back-up documentation (effective March 5, 2010, and described in the [Form 571 Reference Guide dated November 2010](#)). Fannie Mae will not reimburse the technology usage and electronic invoice submission charges without the submission of the invoice.

Servicers will only be reimbursed for the maximum fees noted above and in Announcement SVC-2010-10.

Servicing Guide, Part VII, Section 501: Selection of Bankruptcy Attorneys and Avoiding Delays in Case Processing, and Part VIII, Section 104: Referral to Foreclosure Attorney/Trustee

Servicers may not enter into or participate in any arrangements with an outsourcing company or third-party vendor pursuant to which the servicer receives a direct or indirect benefit of any kind (e.g., a lower charge for services or a payment) for referring a foreclosure or bankruptcy matter relating to a Fannie Mae mortgage loan to a particular attorney or trustee. Outsourcing companies or third party vendors must not be permitted to directly or indirectly select (or influence the selection of) the attorneys and trustees to be used on Fannie Mae mortgage loans.

Servicers should contact their Servicing Consultant, Portfolio Manager, Investor Reporting Business Analyst, or Fannie Mae's National Servicing Organization's Servicing Solutions Center at 1-888-FANNIE5 (888-326-6435) with any questions regarding this Announcement.

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