

Fannie Mae Issues Fair Servicing Best Practices Guide

Article By:

Christy W. Hancock

John Thomas Mostellar III

Britney M. Crawford

This week, in line with the CFPB's ever-increasing focus on [fair lending](#), Fannie Mae issued a [Fair Servicing Best Practices](#) Guide to promote "servicer awareness of fair servicing best practices." Taking a big picture approach, the guide states that servicers should ensure that "all borrowers are treated consistently and fairly throughout the loan servicing process" and otherwise comply with fair lending and other consumer protection laws. Additionally, the guide emphasizes that all servicers are expected to build a "fair servicing framework" and use "data driven insights to identify disparities and mitigate risks through purposeful and meaningful actions."

To facilitate the development of a servicer's "fair servicing framework," the guide lays out several best practices it has identified based on conversations with servicers and consumer advocacy groups, including:

- Training
- Risk/Compliance
- Policies and Procedures
- Monitoring/Testing
- Governance
- Remediation
- Consumer Support and Limited English Proficiency (LEP)

For each of these best practices, Fannie Mae includes insights and recommendations for servicers to consider when building a "fair servicing framework." Given the nature of the guide, the recommendations do not appear to be formal requirements from Fannie Mae. However, since there is no other formal guidance on fair servicing from Fannie Mae, servicers will likely need to rely on the guide in anticipation of future fair servicing scrutiny.

While many of these insights appear straightforward, several merit special attention. The guide makes several mentions of "specialized vendors" that servicers should consider utilizing in the training, risk/compliance, and monitoring/testing contexts. The guide does not provide an explanation or example of these "specialized vendors," but Fannie Mae is assumedly referring to vendors that

provide fair servicing specific services. The guide also recommends particular focus on loss mitigation exceptions, non-sufficient fund restrictions, and fee waivers as being possibly more susceptible to fair servicing errors. The guide recommends incorporating a fair servicing review into all change management processes and incorporating fair servicing expectations into both sub-servicing relationships and vendor relationships. Additionally, the LEP recommendations contemplate the servicer implementing a robust program across all aspects of its business to accommodate borrowers' language preferences, including using technology to monitor and identify LEP-related issues and trends. Overall, these recommendations highlight that Fannie Mae expects servicers to take on significant operational costs to develop their "fair servicing frameworks."

As indicated above, the guide provides useful insight into Fannie Mae's position on fair servicing, but it does not impose formal requirements from Fannie Mae. As a result, the next steps for Fannie Mae and other GSEs are to provide servicers with formal requirements clearly outlining what is expected from a fair servicing perspective. Until then, servicers should continue to defer to the CFPB's [Bulletin 2021-02: Supervision and Enforcement Priorities Regarding Housing Insecurity](#) and [Advisory Opinion on Equal Credit Opportunity \(Regulation B\)](#) impacting fair servicing.

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National Law Review, Volume XIV, Number 68

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