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38 CFR Ch. I (7-1-08 Edition)

(7) Foreclosure has been commenced by the taking of the first action required for foreclosure under local law; or

(8) The holder's lien position would be jeopardized by acceptance of the partial payment.

(c) A failure by the holder to comply with the provisions of this paragraph may result in a partial or total loss of guaranty or insurance pursuant to §36.4828(b), but such failure shall not constitute a defense to any legal action to terminate the loan.

(Authority: 38 U.S.C. 3703(c)(1))

§ 36.4817 Servicer reporting requirements.

(a) Servicers of loans guaranteed by the Secretary shall report the information required by this section to the Secretary electronically. The Secretary shall accept electronic submission from each entity servicing loans guaranteed under 38 U.S.C. chapter 37 not later than the effective date of this rule.

(b) Not later than the seventh calendar day of each month each servicer shall report to the Secretary basic information (loan identification information, payment due date, and unpaid principal balance) for every loan guaranteed by the Secretary currently being serviced by that entity, unless previously reported under paragraph (c)(7) of this section and has not reinstated, terminated, or paid in full.

(c) Servicers shall report to the Secretary the following specific loan events in accordance with the timeframes described for each event. Unless otherwise specified herein, the servicer shall report these events on a monthly basis (*i.e.*, no later than the 7th calendar day of the month following the month in which the event occurred) only for delinquent loans in its portfolio.

(1) Loan paid in full—when the loan obligation has been fully satisfied by receipt of funds and not a servicing transfer. The servicer shall report this event regardless of delinquency status.

(2) Authorized transfer of ownership—when the servicer learns that an authorized transfer of ownership has been completed. The servicer shall re-

port this event regardless of delinquency status.

(3) Release of liability—when an obligor has been released from liability. The servicer shall report this event regardless of delinquency status.

(4) Partial release of security—when the holder has released the lien on a part of the security for the loan pursuant to §36.4827. The servicer shall report this event regardless of delinquency status.

(5) Servicing transfer (transferring servicer)—when a holder transfers the loan to another servicer.

(6) Servicing transfer (receiving servicer)—when a servicer boards the loan.

(7) Electronic Default Notification (EDN)—when the loan becomes at least 61 days delinquent. The servicer shall report this event no later than the 7th calendar day from when the event occurred. The servicer shall report this event only once per default for delinquent loans in its portfolio.

(8) Delinquency status—when the servicer notifies VA of any updates to the delinquency information on loans for which an EDN has been submitted. The servicer shall report this event monthly (*i.e.*, no later than the 7th calendar day of the month following the month for which the reported information applies) until the default cures or the loan terminates.

(9) Contact information change—when there is a change to the contact information for current owners or a property or mailing address change.

(10) Occupancy status change—when there is a change in property occupancy status.

(11) Bankruptcy filed—when any owner files a petition under the Bankruptcy Code. The servicer shall report this event no later than the 7th calendar day from when the event occurred. The servicer shall report this event only on delinquent loans in its portfolio, if appropriate, or with the EDN when it is reported.

(12) Bankruptcy update—when a significant event related to the bankruptcy has occurred. The servicer shall report this event no later than the 7th calendar day from when the event occurred. The servicer shall report this event only on delinquent loans in its

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portfolio, if appropriate, or with the EDN when it is reported.

(13) Loss mitigation letter sent—when the servicer sends the loss mitigation letter to the borrower as required by § 36.4850(g)(1)(iv).

(14) Partial payment returned—when the servicer returns a partial payment to the borrower.

(15) Default cured/loan reinstated—when a previously reported default (*i.e.*, an EDN was filed) has cured/loan reinstated.

(16) Default reported to credit bureau—when the servicer notifies the credit bureaus of a defaulted loan or loan termination. The servicer shall report this event only on delinquent loans in its portfolio, and shall report the first occurrence only.

(17) Repayment plan approved—when the servicer approves a repayment plan.

(18) Special forbearance approved—when the servicer approves a special forbearance agreement.

(19) Loan modification approved—when the servicer approves a loan modification.

(20) Loan modification complete—when both the servicer (and/or the holder, where necessary) and the owner(s) have executed the modification agreement.

(21) Compromise sale complete—when a compromise sale closes.

(22) Deed-in-lieu of foreclosure complete—when the servicer records the deed-in-lieu of foreclosure. The servicer shall report this no later than the 7th calendar day from when the event occurred.

(23) Foreclosure referral—when the loan is referred to legal counsel for foreclosure. The servicer shall report this no later than the 7th calendar day from when the event occurred.

(24) Foreclosure sale scheduled—when the foreclosure sale is scheduled. The servicer shall report this no later than the 7th calendar day from when the event occurred.

(25) Results of sale—when the foreclosure sale is complete, the servicer reports the results of the foreclosure sale. The servicer shall report this no later than the 7th calendar day from when the event occurred.

(26) Transfer of custody—when the servicer notifies VA of the holder's intent to convey the property. The servicer shall report this no later than the 15th calendar day from the date of liquidation sale (such as the date of foreclosure sale, date of recordation of a deed-in-lieu of foreclosure, or confirmation/ratification of sale date when required under local practice).

(27) Improper transfer of custody—when the servicer discovers that the conveyance of the property to VA was improper. The servicer shall report this no later than the 7th calendar day from when the error is discovered.

(28) Invalid sale results—when the foreclosure sale is invalid. The servicer shall report this no later than the 7th calendar day from discovery of the event that invalidated the sale.

(29) Confirmed sale date with no transfer of custody—when the loan is terminated, the property is not conveyed, and the property is located in a confirmation/ratification of sale state.

(30) Basic claim information—when the servicer files a claim under guaranty. The servicer shall report this event within 365 calendar days of loan termination for non-refund claims, and within 60 calendar days of the refund approval date for refund claims.

(31) Refunding Settlement—when VA refunds a loan and the servicer reports the tax and insurance information. The servicer shall report this event within 60 calendar days of the refund approval date.

(Authority: 38 U.S.C. 3703(c), 3732)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0021.)

§ 36.4818 Servicer tier ranking—temporary procedures.

(a) The Secretary shall assign to each servicer a “Tier Ranking” based upon the servicer's performance in servicing guaranteed loans. There shall be four tiers, known as tier one, tier two, tier three, and tier four, with tier one being the highest rated and tier four the lowest. Upon the effective date of this regulation, every servicer of loans guaranteed by the Secretary shall be presumed to be in servicer tier two, and shall remain in tier two until the date