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38 CFR Ch. I (7-1-16 Edition)

(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)

[73 FR 6310, Feb. 1, 2008. Redesignated at 75 FR 33705, June 15, 2010, as amended at 75 FR 65238, Oct. 22, 2010]

§ 36.4318 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 specified in paragraph (c)(2) of this section.

(b) For purposes of this section, the term “calendar quarter” shall mean the 3-month periods ending on March 31, June 30, September 30, and December 31.

(c)(1) No later than 30 calendar days after the last business day of the first calendar quarter occurring after the rules for determining tier rankings take effect, and then not later than 30 calendar days after the last business day of each subsequent calendar quarter, the Secretary shall provide each servicer with an evaluation of their performance under such rules.

(2) No later than 45 calendar days after the last business day of the fourth calendar quarter during which the Secretary evaluates the performance of servicers, and then annually

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thereafter, VA shall advise each servicer of its tier ranking.

(3) Any entity which begins servicing guaranteed loans after the first calendar quarter occurring after rules for determining tier rankings take effect shall be presumed to be in tier two. The Secretary will evaluate the performance of such servicer as provided in paragraph (c)(1) of this section. The Secretary will advise such servicer of its tier ranking at the time other servicers are advised of their tier rankings pursuant to paragraph (c)(2) of this section, provided the servicer has received evaluations for at least four continuous calendar quarters.

(d) The quarterly evaluation and tier ranking of a servicer shall be deemed to be confidential and privileged and shall not be disclosed by the Secretary to any other party.

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

Tier ranking	One	Two	Three	Four
Repayment Plan	\$200	\$160	\$120	\$0
Special Forbearance	200	160	120	0
Loan Modification	700	500	300	0
Compromise Sale	1,000	800	600	0
Deed in Lieu of Foreclosure	350	250	150	0

(c) For purposes of this section, a loss-mitigation option or alternative to foreclosure will be deemed successfully completed as follows:

(1) With respect to a repayment plan (as defined in §36.4301), when the loan reinstates;

(2) With respect to special forbearance (as defined in §36.4301), when the loan reinstates. If a repayment plan is developed at the end of the forbearance period, then the special forbearance is not eligible for an incentive payment, although the subsequent repayment plan may be eligible upon loan reinstatement;

(3) With respect to a loan modification, when the modification is executed and the loan reinstates;

(4) With respect to a compromise sale, when the claim under guaranty is filed; or

(5) With respect to a deed-in-lieu of foreclosure, when the claim under guaranty is filed.

§ 36.4319 Servicer loss-mitigation options and incentives.

(a) The Secretary will pay a servicer in tiers one, two, or three an incentive payment for each of the following successful loss-mitigation options or alternatives to foreclosure completed: repayment plans, special forbearance agreements, loan modifications, compromise sales, and deeds-in-lieu of foreclosure. Only one incentive payment will be made with respect to any default required to be reported to the Secretary pursuant to §36.4317(c). No incentive payment will be made to a servicer in tier four. The options and alternatives are listed in paragraph (b) of this section from top to bottom in their preferred order of consideration (i.e., a hierarchy for review), but VA recognizes that individual circumstances may lead to “out of the ordinary” considerations.

(b) The amount of the incentive payment is as follows:

(d) Incentive payments with respect to repayment plans, special forbearances and loan modifications shall be made no less frequently than monthly. For all other successful loss-mitigation options, incentives shall be paid in the final claim payment.

(e) The Secretary shall reserve the right to stop an incentive payment to a servicer if the servicer fails to perform adequate servicing.

(Authority: 38 U.S.C. 3703(c), 3720, 3722)

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

[73 FR 6310, Feb. 1, 2008. Redesignated at 75 FR 33705, June 15, 2010, as amended at 75 FR 65238, Oct. 22, 2010]

§ 36.4320 Refunding of loans in default.

(a) Upon receiving a notice of default or a notice under §36.4317, the Secretary may require the holder upon