



Announcement

Number 2011-01

To: All MERS Members

February 16, 2011

Re: Foreclosure Processing and CRMS Scheduling

MERS is providing the following guidance to all Members to strengthen business practices, and minimize reputation, legal and compliance risk to MERS and its Members. In recent months legal challenges have arisen regarding alleged inadequacies and improprieties in the foreclosure process including allegations of insufficient or incorrect supporting documentation and challenges to the legal capacity of parties' right to foreclose. MERS is committed to reevaluate and strengthen its systems and procedures to protect against these types of legal challenges. Consistent with this approach we have enhanced the Corporate Resolution Management System (CRMS) and instituted related policies and procedures designed to strengthen MERS' business practices and limit compliance risks. To comply with this guidance, MERS Members should implement the following practices, effective immediately.

1. MERS is planning to shortly announce a proposed amendment to Membership Rule 8. The proposed amendment will require Members to not foreclose in MERS' name. Consistent with the Membership Rules there will be a 90-day comment period on the proposed Rule. During this period we request that Members do not commence foreclosures in MERS' name. If a Member determines that it will commence a foreclosure in MERS' name during this 90-day period, two weeks advance notice must be given to MERS to permit verification of the appointment and current status of the Certifying Officer proposed to participate in the foreclosure. No foreclosure may be processed in MERS' name without first obtaining this verification. We encourage Members to bring foreclosures only in the name of the holder of the note, in the name of the trustee or the servicer of record acting on behalf of the trustee.
2. MERS Members shall have a MERS Certifying Officer (also known as MERS Signing Officer) execute assignments out of MERS' name before initiating foreclosure proceedings. Assignments out of MERS' name should be recorded in the county land records, even if the state law does not require such a recording (see [MERS Membership Rule 8](#)).
3. For all future assignments and the execution of other documents in the name of MERS, Members must use a MERS Certifying Officer who has been appointed under our new certifying officer process, which, after November 1, 2010, uses a new form of corporate resolution. Under our new process, all Certifying Officers are also being tested and appointed under the enhanced CRMS. Only Certifying Officers appointed under the new form of corporate resolution, tested, and transitioned onto CRMS after November 1, 2010 should execute assignments. We are in the process of ensuring that all Members are transitioned onto CRMS in compliance with our new policy, and we will work with all Members to ensure the transitions can be accomplished in an orderly and expeditious way. For those Members who have not undergone this transition onto the CRMS, you will receive login credentials and further instructions from MERS on how to complete this process. It is important that you follow all instructions and that you complete this process as quickly as possible. MERS will be communicating with you to notify you when your Company will be transitioned onto the CRMS under our new policy. Once your Company has access to the CRMS, all of your existing and potential Certifying Officers should work quickly to complete the certification process. Once all of your existing and potential Certifying Officers have successfully completed the certification process, you will need to submit your request to MERS for approval. Submissions from your Company will only be accepted during the phase-in period assigned to you. **Because it will take some time to transition under our new policy, Certifying Officers can continue to execute documents in MERS' name under existing resolutions until the new corporate resolution is issued to your Company.** However, if your Company does not submit the request to MERS through the CRMS in the timeframe assigned to you, you will not be issued a new corporate resolution and any prior corporate resolutions issued to your company will be revoked.

4. MERS Members should ensure the accuracy of the information in the complaint and foreclosure affidavit that addresses, where applicable, the authorization under which a MERS Certifying Officer validly assigned the mortgage to the foreclosing note-holder.
5. Other business practices Members should perform on a periodic basis include:
 - Conduct a review of employees designated as Certifying Officers and reconcile to the CRMS to ensure MERS has an up-to-date and accurate list of Certifying Officers;
 - Ensure employees designated as Certifying Officers receive appropriate training to carry out their duties and responsibilities as Certifying Officers; and
 - Reconcile with CRMS to update corporate resolutions and signing authority agreements to ensure appropriate Certifying Officers are validly appointed.

If you have any questions regarding this announcement, please contact the MERS Law Department at mers@mersinc.org, or call the MERS corporate office at 703-761-1270 and ask for the MERS Law Department. The MERS Help Desk will not be able to assist in this matter.