

Doron F. Eghbali Residential Real Estate

[Fannie Makes It Harder to Just Walk Away From Your Home](#)

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Given the rather socially accepted trend to just walk away from one's home when the mortgage far exceeds its value, has led to Fannie Mae implementing new rules and regulations. In fact, Fannie Mae announced new regulations aiming to penalize or rather deter such "strategic defaulters", if they are unable to demonstrate they can pay the mortgage. Let us analyze this important development.

SOME BACKGROUND

Usually, borrowers who default on their mortgages have to wait five years before they could be considered for a new mortgage from Fannie Mae. However, with these regulations, Fannie Mae is increasing the five-year waiting period to seven years FOR borrowers who could have otherwise paid the mortgage and simply walked away from their home.

SOME BASICS OF NEW RULES AND REGULATIONS

1. Affecting Only Borrowers "Who Can Afford" to Pay Their Mortgages

Fannie Mae is concerned amid the relatively still dismal housing market, even those borrowers who can afford to pay their mortgages realize it might be a while before they can recoup the lost value in their properties. Accordingly, such borrowers make a strategic decision. They stay in their homes without paying mortgage waiting for the foreclosure process to unfold. They know such process could take around one year or so. As such, they reason, they might as well get even with their lenders who allegedly sold them houses with inflated values.

Now, Fannie Mae seriously intends to deter such strategic defaulters if they can pay their mortgage at the current rates, but they just walk away knowing there is nothing much Fannie Mae could do.

Hence, Fannie Mae has implemented the following rules and regulations:

- **DEMONSTRATION OF HARDSHIP OR ATTEMPT AT LOAN WORKOUT:** Any borrower who cannot demonstrate hardship, an effort to seek a workout with the lender or "other extenuating circumstances" will be subject to seven-year waiting period.
- **DEFICIENCY JUDGMENT PURSUED AGAINST STRATEGIC DEFAULTERS:** Fannie Mae also intends to pursue for deficiency judgment, i.e. the difference between the loan balance and what the residential property is sold for. However, such deficiency judgment is only available in some states.

CAVEAT

Accordingly, this behooves borrowers to document all of their efforts aimed at loan workouts and inability to afford mortgage payments. This MIGHT shield them against such longer waiting periods, if such eventuality is, unfortunately, materialized.

DORON EGHBALI is a Partner at the Beverly Hills Offices of Law Advocate Group, LLP. He Primarily Practices Business, Real Estate and Entertainment Law. Doron Can be Reached at: 310-651-3065. For More Information, Please, Visit: [HERE](#).