

Lender Letter LL-2013-05

May 6, 2013

To: All Fannie Mae Single-Family Sellers Qualified Mortgages

The Consumer Financial Protection Bureau (CFPB) issued a final rule on January 10, 2013, implementing the “ability to repay” provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The rule generally requires lenders to make a reasonable, good faith determination of a consumer’s ability to repay before originating a mortgage loan and establishes certain protections from liability for “qualified mortgages.” The ability to repay rule will take effect for applications dated on or after January 10, 2014.

Mortgages Eligible for Sale to Fannie Mae

On May 2, 2013, FHFA directed Fannie Mae and Freddie Mac (the GSEs) to limit future acquisitions to loans that

- are qualified mortgages under the ability to repay rule, including those meeting the special or temporary qualified mortgage requirements; or
- are exempt from the ability to repay requirements, such as investor transactions.

Therefore, effective for mortgages with application dates on or after January 10, 2014, Fannie Mae will not be allowed to purchase any loans if they are subject to the ability to repay requirements and are either:

- loans that are not fully amortizing (e.g., no negative amortization or interest-only loans);
- loans with terms in excess of 30 years (e.g., no 40-year terms); or
- loans with points and fees in excess of 3% of the total loan amount or such other limits for low balance loans as set forth in the ability to repay final rule.

Fannie Mae will continue to purchase loans that meet the underwriting and delivery eligibility requirements (e.g., existing debt-to-income ratios, loan-to-value ratios, and reserves) stated in the *Selling Guide*, including loans processed through Desktop Underwriter[®].

Additional Guidance

Fannie Mae currently intends to continue purchasing Refi Plus[™] and DU Refi Plus[™] loans and loans sold under written variances to the *Selling Guide*. However, the CFPB has not yet issued a final rule regarding these items. Precisely whether and how these purchases will be affected will depend on the final rule.

As the industry adopts the ability to repay rule, Fannie Mae will monitor market dynamics and work with FHFA to determine if additional underwriting, eligibility, and/or pricing changes should be made.

For loans with application dates on or after January 10, 2014, Fannie Mae will rely upon lender selling representations and warranties that the loans are qualified mortgages. Fannie Mae has a longer term goal to collect and assess data on these loans to assist in validating whether they meet certain qualified mortgage criteria. This process will be phased in over time.



Fannie Mae will also determine if changes are required to the post-purchase file review processes, repurchase requirements, and/or updates to the overall representation and warranty framework. Fannie Mae is currently assessing policy and operational impacts of the rule to determine the effort required and cost to implement these changes and acknowledges that lenders will need adequate lead time to align with the GSEs in support of the rule. Fannie Mae is making every effort to complete that assessment and communicate this summer any required changes necessary to implement the limitations discussed above.

Lenders who have questions about this Lender Letter should contact their Account Team.

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