FannieMae

Selling Guide Announcement SEL-2014-06

May 27, 2014

Selling Guide Updates

The *Selling Guide* has been updated to include changes to the following topics:

- Delayed Financing, Continuity of Obligation, and Multiple Financed Properties for the Same Borrower
- Large Deposit and Other Asset Policies
- Definitions for Retail, Correspondent, and Broker Origination Types
- Requirements for Use of a Power of Attorney
- Unemployment Benefits for DU Refi Plus™ and Refi Plus™ Loan Applicants
- Financial Statements and Report Requirements

Each of the updates is described below. The affected topics (and specific paragraphs) are noted for each policy change. Lenders should review each topic to gain a full understanding of the policy changes. The updated topics are dated May 27, 2014.

Also updated is the *Special Feature Codes* list, which is available on Fannie Mae's website.

Delayed Financing, Continuity of Obligation, and Multiple Financed Properties for the Same Borrower

Fannie Mae has updated a number of policies in the following topics to provide additional flexibility and clarity.

B2-1.2-03, Cash-Out Refinance Transactions

- A borrower that inherits or was legally awarded (by divorce, separation, or dissolution of a domestic partnership) a property is exempt from the 6-month waiting period requirement that applies to cash-out refinances.
- Continuity of obligation must be demonstrated unless one of the following conditions is met:
  - the borrower was added to title 24 months or more prior to the disbursement date of the new loan, or
  - there is no existing mortgage on the subject property as a result of the borrower either having purchased the subject property with cash or having paid off any prior mortgage for which the borrower was an obligor.
- The requirements for the delayed financing exception have been clarified to include:
  - the manner in which the borrower (or a related entity) may have taken title to the property at the time of initial purchase,
  - the HUD-1 Settlement Statement for the refinance must reflect the pay off (or pay down) of an unsecured loan or loan secured by an asset other than the subject property that was used to acquire the property, and
  - the current appraised value is used for the cash-out transaction.

B2-1.2-04, Continuity of Obligation

- The definition of continuity of obligation was added. Continuity of obligation requirements do not apply when there is no existing mortgage on the subject property as a result of the borrower either having purchased the subject property with cash or when any prior mortgage for which the borrower was an obligor was paid in full.
- Continuity of obligation is now measured from the date of the original event (for example, transfer of title) and ends with the disbursement date of the new refinance transaction.
- The permissible exceptions to the continuity of obligation requirements have been updated. The eligibility criteria for those loans that do not meet the continuity of obligation requirements or a permissible exception were updated and simplified. These new criteria are based on how long the borrower has been on title and the current appraised value of the property.

> NOTE: *The "Continuity of Obligation" footnote on page 8 of the Eligibility Matrix was slightly updated to account for these changes.*

B2-2-03, Multiple Financed Properties for the Same Borrower

- This topic was updated to clarify how to apply the financed property limitation when the property is owned by a limited liability company (LLC) or partnership, based on the percentage of ownership and whether the financing is in the name of the borrower, the LLC, or the partnership.

Updated Selling Guide Topics

- B2-1.2-03, Cash-Out Refinance Transactions (Eligibility Requirements and Delayed Financing Exception)
- B2-1.2-04, Continuity of Obligation (Definition of Continuity of Obligation, Requirements for Continuity of Obligation, Permissible Exceptions to Continuity of Obligation and All Other Refinance Transactions – Limited Eligibility)
- B2-2-03, Multiple Financed Properties for the Same Borrower (Limits on the Number of Financed Properties and Eligibility Requirements for Investor and Second Home Borrowers with Five to Ten Financed Properties)

Effective Date

- These updates are effective immediately.

Large Deposit and Other Asset Policies

Fannie Mae last updated its policy on unsourced deposits in November of 2012. A key purpose of that policy change was intended to help mitigate the risk associated with a borrower incurring undisclosed debt that was not included in the calculation of the borrower's total monthly obligations. The current policy states that when bank statements, typically covering the most recent two months, are used, the lender must obtain a written explanation and documentation for the source of large deposits, defined as a single deposit that exceeds 25% of the total monthly qualifying income for the loan. However, this approach resulted in unintended consequences, particularly in documenting unsourced funds that were not needed to complete the mortgage transaction. Fannie Mae is revising this policy to focus only on those funds that are actually required for the transaction, which will continue to mitigate the risk while increasing efficiency for lenders. Other changes related to large deposits include the following:

- The policy is limited to purchase transactions.

- The definition of a large deposit has been changed from 25% of the total monthly qualifying income to 50%.
- When a deposit includes both sourced and unsourced (undocumented) portions, only the unsourced portion must be used in calculating whether the deposit meets the 50% definition.
- When the lender uses a reduced asset amount, net of the unsourced amount of a large deposit, that reduced amount must be used for underwriting purposes (whether the mortgage loan is underwritten manually or through DU).

Other asset-related updates that are included in this Guide update:

- When the borrower is relying on the sales proceeds from another property to pay for the down payment or closing costs on the subject property, the HUD-1 Settlement Statement for that prior transaction is required. However, the HUD-1 no longer need be "fully-executed" (in recognition of the fact that the seller of a property may not receive a "fully-executed" copy of that HUD-1). Instead, the lender must obtain a copy of the final HUD-1 from the prior transaction.
- Assets for the down payment from a "like-kind exchange," also known as a 1031 exchange, are eligible if properly documented and in compliance with Internal Revenue Code Section 1031.
- If an insurance company payout is used for the down payment or closing costs, lenders must document the borrower's receipt of the funds from the insurance company by obtaining either a copy of the check from the insurer or a copy of the payout statement issued by the insurer. However, if the cash-value of the life insurance is being used for reserves, the cash-value must be documented, but does not need to be liquidated and received by the borrower.
- The use of business assets for a self-employed borrower as an acceptable source of funds for the down payment, closing costs, and financial reserves is also specifically addressed in this Guide update. The borrower must be listed as an owner of the account and the account must be verified in accordance with B3-4.2-01, Verification of Deposits and Assets. The lender must perform a business cash flow analysis to confirm that the withdrawal of funds for this transaction will not have a negative impact on the business.

Updated Selling Guide Topics

- B3-4.2-02, Depository Accounts
- B3-4.3-10, Anticipated Sales Proceeds (Sales Proceeds Needed for Down Payment and Closing Costs and Like-Kind Exchanges)
- B3-4.3-19, Cash Value of Life Insurance (Documenting Borrower Receipt of Funds)

Effective Date

These policy updates are effective immediately.

Definitions for Retail, Correspondent, and Broker Origination Types

Fannie Mae is updating the definitions for retail, broker, and correspondent origination types to provide greater detail and clarity. The definitions have also been updated to address certain common scenarios that were not previously referenced within the definitions, including:

- correspondent originations that are underwritten by the correspondent lender, as well as instances in which the correspondent has not received delegated underwriting authority from the lender; and
- broker originations that are "table funded," that is, closed in the broker's name, but funded by the lender or correspondent.

For consistency purposes, the same definitions will appear in the *Selling Guide* and the applicable Special Feature Code definitions (SFC 212 for Broker Third-Party Origination and SFC 211 for Correspondent Third-Party Origination).

As part of this update, SFC 214 Desktop Underwriter Loan (Seller Acquired after Evaluation) is being phased out. All DU loans, regardless of the party submitting the loan to DU, should be identified with SFC 127 going forward. In order to provide lenders with sufficient implementation time, SFC 214 will continue to be accepted at delivery for an unspecified period of time. An additional communication will be provided to lenders in advance of the deactivation of SFC 214. The *Special Feature Codes* document on Fannie Mae's website has been updated to reflect the above changes.

Updated Selling Guide Topics

- A2-2.1-04, Limited Waiver of Contractual Warranties for Mortgages Submitted to DU (Limited Waiver of Contractual Warranties for Mortgages Submitted to DU)
- A3-3-01, Outsourcing of Mortgage Processing and Third-Party Originations (Third-Party Originations)
- B5-5.2-01, DU Refi Plus and Refi Plus Eligibility (Lender Eligibility)
- E-3-02, Glossary of Fannie Mae Terms: B
- E-3-03, Glossary of Fannie Mae Terms: C
- E-3-18, Glossary of Fannie Mae Terms: R
- E-3-20, Glossary of Fannie Mae Terms: T

Effective Date

These revised definitions are effective for whole loans delivered to Fannie Mae on or after September 30, 2014 and for MBS loans with pool issue dates on or after September 1, 2014. The updated definitions will also be included in the MBS Prospectus, effective for loans with MBS issue dates on or after September 1, 2014.

Requirements for Use of a Power of Attorney

In Announcement SEL-2013-08, *Selling Guide Updates*, Fannie Mae announced updates to its requirements for acceptable practices when an attorney-in-fact signs the security instrument and/or note on the borrower's behalf. As part of this update, the use of a power of attorney was prohibited (except under certain circumstances) when no other borrower executed the loan documentation in person in the presence of a notary public. Fannie Mae also acknowledged and permitted the practice of lenders using powers of attorney as a matter of convenience or cost savings through a closing transaction facilitated by an online, interactive session between the borrower(s) and a lender-chosen attorney-in-fact, provided certain conditions were met.

When making these updates, it was not Fannie Mae's intent to limit the efficiencies of the online, interactive sessions by requiring that at least one borrower appear in person for these transactions. Because these sessions are, by design, intended to relieve the borrower(s) from the need to appear in person, it is acceptable for all borrowers in these transactions to make use of a power of attorney. The risks associated with these transactions are mitigated by the specific requirements set forth in B8-5-06, Requirements for Use of a Power of Attorney, of the *Selling Guide*, which allows such transactions. Fannie Mae is updating the *Selling Guide* to clarify that, for such transactions, an attorney-in-fact may sign the security instrument and/or note for all borrowers on the transaction, provided the applicable requirements governing such transactions are met.

Updated Selling Guide Topic

- B8-5-06, Requirements for Use of a Power of Attorney (Restrictions on the Use of a Power of Attorney)

Effective Date

Lenders may implement this change immediately and Fannie Mae will retroactively allow it for any loan originated in accordance with Announcement SEL-2013-08.

Unemployment Benefits for DU Refi Plus and Refi Plus Loan Applicants

In *Selling Guide* Announcement SEL-2014-04, *Unemployment Benefits Eligibility for DU Refi Plus™ and Refi Plus™ Loans,* Fannie Mae updated its policy requirements by allowing unemployment benefits to be used in qualifying an applicant for a DU Refi Plus or Refi Plus mortgage loan whether the unemployment benefits were seasonal or non-seasonal. This policy has now been incorporated into the *Selling Guide*.

Updated Selling Guide Topics

- B3-3.1-05, Secondary Employment Income (Second Job and Multiple Jobs) and Seasonal Income (Verification of Seasonal Income)
- B3-3.1-09, Other Sources of Income (Unemployment Benefits Income)
- B5-5.2-02, DU Refi Plus and Refi Plus Underwriting Considerations (Income Documentation Requirements)

Effective Date

This update is effective immediately.

Financial Statements and Report Requirements

In addition to meeting Fannie Mae's net worth and liquidity requirements, lenders are required to demonstrate financial adequacy by submitting audited annual financial statements and the *Authorization for Verification of Credit and Business References* (Form 1001) within 90 days after the end of the lender's fiscal year. Fannie Mae has revised its reporting instructions to allow lenders to submit audited annual financial statements and an executed Form 1001 either electronically to audited_financial@fanniemae.com or via hard copy to Fannie Mae's Lender Eligibility and Compliance Unit (formerly titled Counterparty Risk Monitoring Unit). Lenders no longer are required to submit copies of these materials to their lead Fannie Mae regional office.

Updated Selling Guide Topics

- A4-2-02, Financial Statements and Reports (Financial Reporting Requirements)
- E-1-03, List of Contacts

Effective Date

This update is effective immediately.

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

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