

***Selling Guide* Announcement SEL-2014-16**

December 16, 2014

***Selling Guide* Updates**

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

- Self-Employed Income
- Servicing Execution Tool™
- Solar Panels
- Adjustments to Comparable Sales
- Flood Insurance for Nonresidential Detached Structures
- Cure Provision for Points and Fees
- Payment Calculation for Student Loans
- Nonstandard Repayment Plans
- Incorporation of *Selling Guide* Announcement SEL-2014-14, *Lender Selling Representations and Warranties Framework Update*
- ARM Plan Update
- Miscellaneous *Selling Guide* Updates

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 December 16, 2014.

Self-Employed Income

Fannie Mae conducted a comprehensive review of policies related to self-employment income and the *Cash Flow Analysis* (Form 1084). Through this review, Fannie Mae determined that lenders are not consistently applying certain self-employed income policies, and a number of policies were in need of clarification. As a result, the *Selling Guide* has been updated to provide additional clarity, with a goal of increased consistency in the application of those policies. Notable changes include (but are not limited to):

- **Analysis of Borrower's Personal Income** – Clarified that a lender is not required to prepare a written evaluation of self-employment income when the borrower is qualified using only salaried income and self-employment is a separate and secondary source of income (or loss).
- **Analysis of Borrower's Business Income** – Clarified that a lender is required to perform an analysis of a borrower's business income when a borrower is relying on it to qualify and the requirements that permit the lender to waive business tax returns are not met.
- **Business income reported for a borrower on Schedule K-1 (IRS Forms 1065 or 1120S)**
 - Clarified that Schedule K-1 for the most recent two years is required when using business income to qualify.

- Clarified that business income may be used in qualifying the borrower only when there is a history of income distribution to the borrower consistent with the level being used to qualify.
- Expanded the reference to ordinary income to include net rental real estate income and other net rental income reported on Schedule K-1.
- **Income Verification for Self-Employed Co-Borrowers** – Provided additional guidance regarding the documentation required.
- **Use of Business Assets** – Provided guidance regarding the documentation that may be necessary to confirm that the withdrawal of funds will not have a negative impact on the business.
- **Fannie Mae Cash Flow Analysis (Form 1084)** – Revised to reflect policy clarifications and align with IRS tax forms and terminology.

Updated Selling Guide Topics

- [B3-3.2-01](#), Underwriting Factors and Documentation for a Self-Employed Borrower
- [B3-3.2-02](#), Business Structures
- [B3-3.2.1-08](#), Income or Loss Reported on IRS Form 1065 or 1120S, Schedule K-1
- [B3-3.2.2-01](#), Analyzing Partnership Returns for a Partnership or LLC
- [B3-3.2.2-02](#), Analyzing Returns for an S Corporation

Effective Date

Lenders may implement these changes immediately but must do so for applications dated on or after April 1, 2015.

Servicing Execution Tool

The Servicing Execution Tool (SET™) is a component of eCommitONE®, the application used for best efforts committing with a servicing-released execution. Fannie Mae is announcing enhancements to the SET process that will make the end-to-end process seamless and easier for lenders, especially small and mid-sized lenders. To that end, a standardized non-negotiable *eCommitONE/Servicing Execution Tool – Mortgage Loan Servicing Purchase and Sale Agreement* has been incorporated into the *Selling Guide*, the terms of which shall automatically bind all sellers and servicers upon their participation in the SET component of eCommitONE. The procedures and documentation required for a transfer of servicing are set out in the *eCommitONE/Servicing Execution Tool Servicing Transfer Instructions*.

Updated Selling Guide Topics

- [C2-1.2-03](#), Best Efforts Commitment Terms, Amounts, and Other Requirements
- [C2-1.2-04](#), Servicing Execution Tool in eCommitONE
- [E-2-07](#), *eCommitONE/Servicing Execution Tool – Mortgage Loan Servicing Purchase and Sale Agreement*
- [E-3-19](#), Glossary of Fannie Mae Terms: S (definition added for Servicing Execution Tool)

Effective Date

The updated SET is available as of the date of this Announcement.

Solar Panels

Fannie Mae has clarified its current policy and implemented a new policy with respect to homes with solar panels. While not explicitly stated, Fannie Mae currently purchases loans on properties with solar panels when the borrower owns the equipment under standard *Selling Guide* requirements. With these revisions, the *Selling Guide* has been updated and this policy has been expressly stated. Additionally, in recognition of more prevalent financing options and financial agreements available in the marketplace, such as solar leases and power purchase agreements, Fannie Mae has developed a new policy that provides requirements when the homeowner has obtained solar panels through one of these methods.

Updated Selling Guide Topics

- [B2-3-04](#), Special Property Eligibility Considerations (Properties with Solar Panels)
- [B4-1.3-05](#), Improvements Section of the Appraisal Report (Energy Efficient Improvements)
- [B7-3-02](#), General Property Insurance Coverage (Coverage Requirements)

Effective Date

This change is effective immediately.

Adjustments to Comparable Sales

As a result of an analysis of Uniform Appraisal Dataset data specific to comparable adjustments, Fannie Mae has eliminated the 15% net and 25% gross adjustment guidelines and has provided clarification with respect to Fannie Mae's expectations for the appraiser to analyze the market for competitive properties and provide appropriate market based adjustments without regard to limits on the size of the adjustments.

Updated Selling Guide Topic

- [B4-1.3-09](#), Adjustments to Comparable Sales (Analysis of Adjustments)

Effective Date

This change is effective immediately.

Flood Insurance for Nonresidential Detached Structures

In March 2014, Congressional Act H.R. 3370 (the "Homeowner Flood Insurance Affordability Act of 2014") lifted the requirement for the mandatory purchase of flood insurance on non-residential detached structures (NRDS) located in a Special Flood Hazard Area (SFHA). On October 30, 2014, the Interagency Regulators published a Proposed Rule for public comment that would remove flood insurance requirements on all NRDS as compliance examination criteria for federally regulated lenders.

As a result, the *Selling Guide* is being updated to align with the new federal law. Fannie Mae will now require flood insurance if any part of a principal and/or residential detached structure is located within an SFHA.

Updated Selling Guide Topic

- [B7-3-07](#), Flood Insurance Coverage Requirements (General Requirements, Delivery Requirements)

Effective Date

This policy update is effective immediately.

Cure Provision for Points and Fees

On November 3, 2014, the Consumer Financial Protection Bureau (CFPB) published a final rule amending 12 CFR § 1026.43(e)(3) granting limited post-closing cure rights to lenders and investors that would permit loans to have QM status despite exceeding the 3% (or other applicable) points and fees limitation at closing. Under the final rule, the cure is permissible if a number of conditions are met.

The *Selling Guide* has been updated to allow for the cure of overages of Fannie Mae's points and fees requirements for ATR Covered Loans after delivery of the loan to Fannie Mae provided the manner and timing of the cure is consistent with the final rule.

Updated Selling Guide Topic

- [B2-1.4-02](#), Mortgage Loan Eligibility (Ability to Repay Loan Eligibility Requirements)

Effective Date

In alignment with the CFPB rule, this change is effective immediately.

Payment Calculation for Student Loans

Fannie Mae requires that all deferred installment debt, including student loans not yet in repayment, be included in the calculation of the borrower's debt-to-income ratio. In determining the payment for deferred student loans, Fannie Mae currently requires that the lender obtain a copy of the borrower's payment letter or forbearance agreement or calculate the monthly payment at 2% of the balance of the student loan. Research has shown that actual monthly payments are typically lower than 2%. In addition, many student loan repayment structures now use an income-based approach in calculating changes in the payment due over time.

As a result, Fannie Mae is modifying the monthly payment calculation from 2% to 1% of the outstanding balance. In addition, for all student loans, regardless of their payment status, the lender must use the greater of the 1% calculation or the actual documented payment. An exception will be allowed to use the actual documented payment if it will fully amortize the loan over its term with no payment adjustments.

Updated Selling Guide Topics

- [B3-6-05](#), Monthly Debt Obligations (Deferred Installment Debt, Student Loans)

Effective Date

Lenders may implement these changes immediately but must do so for applications dated on or after April 1, 2015.

Nonstandard Repayment Plans

Currently the *Selling Guide* allows lenders to offer nonstandard payment collection plans as part of a separate agreement as long as those agreements are not signed by the borrower until after the mortgage loan has been sold to Fannie Mae. In order to align with the MBS Prospectus that was updated in October 2014, Fannie Mae has removed the requirement that nonstandard payment collection plans not be in place prior to the sale of the mortgage loan to Fannie Mae.

Updated Selling Guide Topic

- [B2-1.4-02](#), Mortgage Loan Eligibility (Nonstandard Payment Collection Options)

Effective Date

This change is effective immediately.

Incorporation of *Selling Guide* Announcement SEL-2014-14, *Lender Selling Representations and Warranties Framework Update*

On November 20, 2014, Fannie Mae, jointly with Freddie Mac and at the direction of the Federal Housing Finance Agency (FHFA), announced a number of significant enhancements to the selling representations and warranties framework in SEL-2014-14, *Lender Selling Representations and Warranties Framework Update*. These changes relate to the framework's life-of-loan representations and warranties for misstatements, misrepresentations, omissions, and data inaccuracies.

In addition to the changes to the framework, Fannie Mae is also updating the section of the *Selling Guide* related to compliance with laws in order to provide lenders with more certainty and transparency regarding when and how Fannie Mae will be able to enforce remedies for compliance with laws violations.

Updated *Selling Guide* Topics

- [A2-2.1-06](#), Life- of-Loan Representations and Warranties
- [A2-3.2-02](#), Enforcement Relief for Breaches of Certain Representations and Warranties Related to Underwriting and Eligibility (Mortgage Loans Eligible for Enforcement Relief)
- [A3-2-01](#), Compliance With Laws (Enforcement for Violations of Compliance with Laws)
- [A3-2-02](#), Responsible Lending Practices (Underwriting Standards)

Effective Dates

As stated in Announcement SEL-2014-14, the changes to the framework are effective retroactively for whole loans purchased, and mortgage loans delivered into MBS with pool issue dates, on and after January 1, 2013, except that these changes do not apply to any loans for which Fannie Mae has issued a repurchase request prior to the date of this Announcement.

The changes to the compliance with laws provisions are effective for whole loans purchased on and after November 20, 2014, and for mortgage loans delivered into MBS with pool issue dates on and after December 1, 2014.

ARM Plan Update

To align with the Federal Housing Administration's (FHA) final rule on ARM adjustment notification requirements, Fannie Mae is updating the look-back period for FHA-insured single-family ARMs from 30 days to 45 days. As a reminder, Fannie Mae purchases FHA-insured loans on a negotiated basis only. Fannie Mae also updated information in the *Standard ARM Plan Matrix* regarding ARM Plan 2725 and Texas 50(a)(6) mortgages. The updated *Standard ARM Plan Matrix* is available on [Fannie Mae's website](#).

NOTE: No updates to the *Selling Guide* were made as a result of these changes.

Miscellaneous *Selling Guide* Updates

Documentation Update. The mortgage industry continues to incorporate advances in technology to increase the efficiency of the origination process. For example, it is possible to produce a copy of a document using a smart phone. A borrower could provide a written explanation of extenuating circumstances for derogatory

credit in the body of an email vs. drafting and mailing a separate letter. Currently, the *Selling Guide* is silent concerning the acceptability of such formats. This update will specifically allow

- a copy of a document provided by a borrower to be produced by any available technology, such as a photocopier, facsimile machine, document scanner, or camera; and
- a borrower explanation of derogatory credit to be in the form of a letter from the borrower, an email from the borrower, or some other form of written documentation from the borrower.

Updated Selling Guide Topics

- [B1-1-01](#), Contents of the Application Package (Requirements for the Loan Application Package)
- [B3-5.3-08](#), Extenuating Circumstances for Derogatory Credit

Effective Date

These updates are effective immediately.

Leasehold Estates. In the most recent update to the *Servicing Guide* (published on November 13, 2014), a policy change was made relating to leasehold estates. One of the leasehold requirements to be met is that the term of the leasehold estate must run for at least five years beyond the maturity date of the mortgage. Formerly, an exception was allowed if fee simple title will vest at an earlier date to the borrower, a homeowners' association, or a co-op corporation. To align with the recent update to the *Servicing Guide*, the reference to "a homeowners' association, or a co-op corporation" has been deleted.

Updated Selling Guide Topics

- [B2-3-03](#), Special Property Eligibility and Underwriting Considerations: Leasehold Estates (Lease Requirements)
- [B5-5.2-01](#), DU Refi Plus and Refi Plus Eligibility (Leasehold Estates Eligibility)

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

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