COVID-19 Frequently Asked Questions - Selling

Updated: Feb. 08, 2022

In response to the COVID-19 pandemic, Fannie Mae and Freddie Mac have provided temporary guidance to lenders on several policy areas to support mortgage originations. These FAQs provide additional information on the temporary policies. We will be updating these FAQs; therefore, we encourage you to check in frequently for updates – refer to the "NEW" or "UPDATED" notations after the question. **These FAQs pertain to COVID-19 Flexibilities until their expiration dates per Lender Letters LL-2021-03. Several FAQs related to policy were deleted from this update.**

Contents

Resources

We have published selling, appraisal, and servicing Lender Letters and helpful information regarding policies related to the pandemic. All of these and other resources can be found on our single-family site. Other resources are available on our corporate site.

FAQs

General

Q1. **Do Fannie Mae's existing disaster policies in the *Selling Guide* apply to the pandemic?**

No, Fannie Mae's existing policies related to disasters do not apply to loans impacted by the pandemic. Instead, lenders can follow the guidance in Lender Letter LL-2021-03, *Impact of COVID-19 on Originations*. All guidance specific to COVID-19 will be communicated through Lender Letters and FAQ documents such as this.

Also, note that loans in forbearance due to COVID-19 are not subject to the disaster-related forbearance policies in A2-3.2-02, Enforcement Relief for Breaches of Certain Representations and Warranties Related to Underwriting and Eligibility.

Q2. **Will a loan entering early payment default status result in an automatic repurchase request?**

No, we will follow existing QC practices to review any sampled loan against the requirements of the *Selling Guide* and any other agreements in place at the time of delivery to us. Remedies for any identified defects will be issued in accordance with the Guide.

Underwriting

Income and Debt – General

Q3. **Can I use the requirements for income while on temporary leave?**

Certain types of temporary leave may be eligible for qualifying. See B3-3.1-09, Other Sources of Income; Temporary Leave Income. However, please note that furloughed borrowers are currently ineligible under the temporary leave policy. See LL-2021-03.

Q4. **If the borrower is furloughed but continues receiving income for a specified period of time, such as four weeks, can the income be used for qualifying?**

No. This income is not stable, predictable, or likely to continue and therefore does not meet the requirements in B3-3.1-01, General Income Information; Continuity of Income.

Q5. **How should I treat non-mortgage debt (for example, student loans, auto loans, etc.) currently in forbearance or deferment?**

Regardless of whether the forbearance or deferment is related to COVID-19, lenders must consider the monthly debt payment in the borrower's DTI. For mortgage loans underwritten using DU, DU will provide guidance on the treatment of the debt, and lenders do not need to conduct additional analysis. For mortgage loans that are manually underwritten, lenders must follow B3-5.3-02, Payment History. However, lenders are not required to, and should not, consider payments missed during the time of a COVID-19-related forbearance to be historical delinquencies or derogatory credit.

For student loans, if the monthly payment is provided on the credit report, the lender may use that amount for qualifying purposes. If the credit report does not provide a monthly payment for the student loan, or if the credit report shows $0 as the monthly payment, the lender must either calculate a qualifying payment per B3-6-05, Monthly Debt Obligations, or use the most recent income-driven repayment plan payment (with supporting documentation).

Q6. **What should the lender do when informed of a change in the borrower's pay structure?**

If the lender is notified that the borrower is transitioning to a lower pay structure, it must apply due diligence in determining the qualifying income amount. For example, if an employer lowers a borrower's base salary, the lender must use the lower amount for qualifying. Or if an employer reduces a borrower's potential for v*ariable* income, for example with a decreased bonus payment plan, additional analysis must be conducted to determine whether the new income amount can be used for qualifying. See B3-3.1-01, General Income Information.

Q7. **Can lenders continue to use capital gains and interest and dividend income for qualifying a borrower?**

Yes, however, lenders should apply additional due diligence to capital gains and interest and dividend income since it is calculated using a historical view. While two years of tax returns are still required to demonstrate a stable history of capital gains and interest and dividends income, lenders must consider the current value of the underlying asset when evaluating income for qualifying purposes.

- If the current value of the asset indicates a reduced amount when compared to historical levels, the lender must use the lower amount provided it is deemed stable at the current level.

- If, due to continued market volatility, the lender cannot determine the income is stable at its current level, the income should not be used for qualifying purposes.

- In the event the current value of the underlying asset indicates an increased amount of capital gains or interest or dividends, the lender should continue to use a two-year average calculated using the borrower's tax returns.

Q8. **If the borrower has a federal student loan that is in a COVID-related automatic forbearance, can the monthly payment be excluded from the borrower's DTI ratio if it has been paid by another party?**

In accordance with B3-6-05, Monthly Debt Obligations, non-mortgage debts paid by others can be excluded from the borrower's DTI ratio with documented evidence that the other party has been making the payments for at least 12 months and the payment history indicates there are no delinquencies.

Given that many student loans were placed into an automatic forbearance status and the other party may have missed payments due to the forbearance, we will allow exclusion of the monthly student loan payment if:

- the missed payments are resolved by the responsible party (not the borrower) prior to closing of the new mortgage loan;
- the responsible party had been making payments on the student loan for at least nine months prior to the automatic forbearance;
- the lender provides borrower documentation evidencing the student loan is in a COVID-related automatic forbearance, and any missed payments have been paid; and
- all other *Selling Guide* requirements have been met (for example, evidence of 12 total payments, either monthly or in aggregate, on the omitted debt).

Income – Self-Employed

Q9. **The borrower is self-employed and owns a business that is closed due to the pandemic. Can the income be used to qualify?**

No, if the business is not operating, the income may not be used to qualify.

Q10. **Is it acceptable to use a business license to verify that the business is open and operating?** NEW

No, this does not verify the business is open and operating within the 20-day or less time frame prior to closing.

Income – Variable

Q11. **When variable income is used to qualify the borrower(s), can a gap of employment (due to COVID-19) be excluded from the method of calculation?**

A gap in employment or a reduction in income due to COVID-19 cannot be excluded from the calculation, and the year-to-date income must continue to be calculated over the entire time period. Refer to B3-3.1-01, General Income Information.

Q12. **How do lenders determine stability of variable income when a borrower has been impacted by COVID-19?**

Income types such as hourly, commission and overtime, are variable by nature. Current *Selling Guide* policy requires these income types to be calculated considering the borrower's history of receipt, the frequency of payment, and the trending of the amount of income being received. Lenders should also include any information or knowledge of any current issues in their analysis of the borrower's continuance of income source. If the trending analysis indicates that the current year to date income has declined, but the borrower is actively employed and the lender has no reason to believe that the borrower will not continue to be employed at the current level, the income can be considered stable. Refer to B3-3.1-01, General Income Information.

Q13. **Is it acceptable to only use year-to-date income to calculate qualifying variable income?**

When variable income is the source of income used in qualifying the borrower(s), lenders must follow the requirements as outlined in B3-3.1-01, General Income Information and perform a trending analysis. This includes determining the monthly year-to-date income amount and comparing that to prior years' earnings to determine the appropriate amount of qualifying income for the loan transaction.

- If the trend in the amount of income is stable or increasing, the income amount should be averaged.
- If the trend was declining but has since stabilized **and** there is no reason to believe that the borrower will not continue to be employed at the current level, the current, lower amount of variable income must be used (i.e., the monthly year to date income amount).
- If the trend is declining, the income may not be stable. Additional analysis must be conducted to determine if any variable income should be used.

Q14. **When the borrower experiences a gap of employment due to COVID-19 and their source of income is variable, is there a minimum amount of documented time the borrower is required to be back at work after the gap period?**

Unless the lender has knowledge to the contrary, if the borrower is actively employed, the income does not have a defined expiration date and the applicable history of receipt of the income is documented (per the specific income type), the lender may conclude that the income is stable, predictable, and likely to continue. The lender is not expected to request additional documentation from the borrower. Refer to B3-3.1-01, General Income Information for additional details.

Q15. **What if an hourly worker with fluctuating hours is working less hours now than they worked prior to the COVID-19 impact?**

Hourly workers with fluctuating hours are covered under our variable income policy. The year-to-date income amount being used will account for a decline in income when determining the amount of income to be used for the trending analysis and when determining the amount to be used for qualifying purposes.

Desktop Underwriter® (DU®) Validation Service

Q16. **When can I apply the changes from LL-2021-03 published on Aug. 11, 2021 to loan casefiles using the DU validation service, including age of documentation requirements?**

The following updates will be made to the DU validation service for loan casefiles submitted or resubmitted on or after the weekend of Sept. 18, 2021:

- Employment validation is being reinstated.

- Vendor reports used to validate income (base, bonus, overtime, commission) and assets will follow standard age of documentation requirements, i.e., may not be more than 4 months old on the closing date. The DU messages will be updated to provide the "Close by Date" in alignment with these changes.
- The value of market-based assets (specifically investment accounts such as stocks, mutual funds, and retirement funds) will now be considered when validating assets.

In order to retain the relief from enforcement of representations and warranties for loans that receive validation through the DU validation service, the lender must comply with all DU messages, including the "Close by Date" provided in those messages. A lender may opt to immediately apply the updated age of documentation requirements per LL-2021-03 before DU is updated, however, if the "Close by Date" is not met, validation (and the associated relief from enforcement of representation and warranties) does not apply.

Temporary Purchase and Refinance Eligibility

Q17. **For purposes of determining eligibility, is a borrower considered current if they have been making partial payments during forbearance?**

No. To be considered current for purposes of the requirements in LL-2021-03, the borrower must have made all mortgage payments due in the month prior to the note date of the new transaction by no later than the last business day of that month. See B3-5.3-03, Previous Mortgage Payment History and the Lender Letter for additional details on payment histories.

Q18. **Can missed payments during forbearance on an existing mortgage loan be refinanced into the new loan amount?**

No. Missed payments during a forbearance may not be refinanced into the new loan amount in a limited cash-out or cash-out refinance transaction. However, if a borrower has initiated a repayment plan or accepted a loss mitigation solution (for example, payment deferral, modification, etc.) and has made three timely payments, the entire existing loan amount, including any remaining outstanding payments under a repayment plan, deferred amounts under a payment deferral, and any principal forbearance under a modification, may be refinanced into the new loan. Refer to LL-2021-03, for details.

Q19. **If the borrower has entered into a repayment plan to resolve missing payments during a forbearance, must it be completed before they are eligible for a new purchase or refinance transaction?**

No. If the borrower has entered into a repayment plan to resolve missed payments, the borrower is eligible for a new purchase or refinance transaction after making three timely payments. Alternatively, if the repayment plan is completed in fewer than three payments, then the borrower is eligible upon completion.

Q20. **What funds may be used to reinstate a mortgage loan with missed payments?**

When a lump sum payment was made to reinstate a mortgage loan on or after the loan application date for the new transaction, the lender must document the source of funds in accordance with eligible sources of funds in the *Selling Guide* Chapter B3-4, Asset Assessment. Any source of funds eligible for down payment and closing costs may be used for reinstatement, provided the lender documents it in accordance with existing *Selling Guide* requirements.

Note that if the lump sum payment was made prior to the loan application date for the new transaction, no sourcing of funds is required.

Q21. **For loss mitigation solutions other than repayment, deferral or modification, what is meant by "full payments" in accordance with the program?**

If another type of loss mitigation solution has been agreed to by the servicer and the borrower to resolve the missed payments, three "full payments" must be made in an amount no less than the required payment due under the terms of the note, or any other agreement that permanently alters the payment amount, such as a Loan Modification agreement.

Q22. **What if a borrower completes a non-retention loss mitigation solution such as a Mortgage Release (deed-in-lieu of foreclosure) or short sale?**

In these cases, the borrower must continue to meet the requirements in B3-5.3-07, Significant Derogatory Credit Events – Waiting Periods and Re-establishing Credit.

Q23. **Does the additional due diligence required to confirm a borrower's mortgage is current apply to all mortgage loans or only mortgage loans in forbearance?**

The requirement to confirm that mortgage loans are current and do not have unresolved missed payments applies to every loan on which the borrower is obligated.

Q24. **If a borrower's existing mortgage loan is in forbearance, but is current, does the borrower need to exit forbearance to be eligible for a new purchase or refinance transaction?**

No. If the borrower is current on all mortgage loans, there is no requirement to exit forbearance prior to obtaining a new loan.

Q25. **What responsibility does the lender have if the borrower entered forbearance on an existing mortgage loan after applying for a new loan?**

The lender must follow the guidance in LL-2021-03, to determine whether the existing mortgage loan is current or if the borrower has entered into and made three full timely payments under a loss mitigation solution as of the note date of the new mortgage loan.

Q26. **When a borrower refinances after a payment deferral, is the new loan considered a cash-out refinance loan or a limited cash-out refinance loan (LCOR)?**

When a borrower refinances a loan that has a payment deferral and the amount of the deferred payments is included in the new loan, the new loan is eligible to be sold as an LCOR if it otherwise meets all of the requirements for an LCOR in the *Selling Guide*. Funds applied to pay off the prior loan, including the deferred portion, are not considered cash out.

Q27. **If the borrower has entered a loss mitigation solution described in LL-2021-03 and is required to make at least three timely payments as of the note date of the new transaction, must those payments be consecutive monthly payments?**

Yes. If the borrower has entered a loss mitigation solution described in LL-2021-03 and is required to make at least three timely payments as of the note date of the new transaction, those payments must be consecutive monthly payments. A lump sum payment containing all three payments does not satisfy the three timely payment requirements in LL-2021-03. The borrower's eligibility to close on a new transaction is not solely based on how many payments have been remitted, but whether at least three consecutive monthly payment due dates have passed in accordance with the loss mitigation option. For example:

On Jun. 15 the borrower	The borrower makes three payments as follows	New loan may close no sooner than	Additional conditions
Enters into a repayment plan, a loan modification trial period plan, a payment deferral agreement, or other loss mitigation solution requiring at least three monthly payments	Jul. 1 payment Aug. 1 payment Sep. 1 payment	Sep. 1 Note: Once the borrower makes the third payment for the month it is due (Sep.), the new loan may close.	All payments made must have been timely and borrower must be otherwise in compliance with applicable loss mitigation solution requirements.
	Jul. 1 – payments made in one lump sum	Sep.1 Note: Three monthly payment due dates must pass before the borrower can close on the new loan.	

Q28. **What is a reinstatement of a mortgage loan?**

A mortgage loan is considered reinstated if the borrower has paid all missed payments and any associated fees or other expenses in a lump sum payment in order to return the mortgage loan to a current status under the terms of the original note. A borrower who is unable to reinstate may pursue a loss mitigation solution.

Q29. **Can I still rely on an Approve/Eligible recommendation in DU?**

Yes. However, the lender must comply with the additional due diligence requirements outlined in LL-2021-03 to determine if all mortgage loans are current and that any missed payments have been resolved. These additional eligibility requirements are currently not automated in DU and must be manually applied.

Q30. **If the borrower is on a repayment plan on another mortgage loan, does the higher payment amount need to be used in qualifying?**

Yes. If the borrower is on a repayment plan temporarily requiring higher payments to repay missed amounts, the PITIA under the terms of the repayment plan must be used in qualifying. The lender must ensure that the requirements in LL-2021-03 are met and that the borrower has made three payments under the repayment plan agreement to be eligible for a new purchase or refinance transaction.

Q31. **Do the temporary eligibility requirements for purchase and refinance transactions in LL-2021-03 apply to mortgage loans secured by a property that will be sold prior to the note date of the new transaction?**

No, as long as the lender provides evidence that the property was sold and the mortgage loan was paid off prior to the note date of the new transaction, the additional eligibility requirements in LL-2021-03 are not applicable.

Q32. **Is forbearance considered an "other loss mitigation solution" not specifically listed in the table in LL-2021-03?**

No. If a borrower is obligated on a mortgage loan that is in forbearance but is current and does not have missed payments, the new mortgage loan is eligible for sale to Fannie Mae. If the borrower is obligated on a mortgage loan that is in forbearance and the mortgage loan is not current, the new mortgage loan is not eligible unless the missed payments on the existing mortgage loan are resolved by meeting the applicable additional eligibility requirements in LL-2021-03.

Q33. **Regarding the interim financing for single-close construction-to-permanent mortgage loans, do I still need to follow the temporary eligibility requirements for purchase and refinance transactions from LL-2021-03?**

Yes. For loans with application dates on or after Jun.2, 2020, lenders must comply with the requirements in the Lender Letter.

Q34. **According to LL-2021-03, lenders must conduct additional due diligence to confirm the borrower's existing mortgage loans are current. Does the same apply to non-mortgage debt, such as student loans or auto loans?**

No. Lenders only need to conduct the additional due diligence on the borrower's mortgage debt.

Q35. **Is a credit supplement an acceptable form of additional due diligence to determine whether the borrower's existing mortgage payments are current?**

A credit report supplement may be acceptable to meet the requirements in LL-2021-03, depending on the information provided in the document, if it demonstrates that the borrower has made all mortgage payments due in the month prior to the note date of the new loan transaction no later than the last business day of the month. For example, a supplement that provides confirmation of the date of the last payment made by the borrower and the due date of the next payment would be acceptable. Credit report supplements that only provide the current status of the mortgage, such as "current" or "paid as agreed," or are only reflective of the information that otherwise appears on the credit report, would not be sufficient to verify that the borrower meets the terms of the Lender Letter.

Closing and Title

Q36. **Can a borrower waive the right to rescind on a refinance transaction?**

Fannie Mae does not set requirements around rescission periods. If a lender chooses to allow a borrower to waive the rescission period, they must follow and comply with applicable regulatory requirements.

Q37. **Do lenders still need to have each borrower whose income (regardless of income source) is used to qualify for the loan to complete and sign a separate IRS Form 4506-C at or before closing?**

Yes, lenders are still required to have each borrower whose income (regardless of income source) is used to qualify for the loan to complete and sign a separate IRS Form 4506-C at or before closing. Refer to B3-3.1-06, Requirements and Uses of IRS Request for Transcript of Tax Return Form 4506-C.

Q38. **Are there any changes to the signature requirements for the promissory note?**

No. In accordance with A2-4.1-03 Electronic Records, Signatures, and Transactions, unless the lender is approved to deliver eNotes, we require that the original wet-ink signed promissory note be in the possession of the document custodian when the loan is certified for our purchase.

Q39. **Does Fannie Mae permit an electronic signature by a borrower on a promissory note that is not an eMortgage?**

No, a wet-ink signature is required for all promissory notes, unless the promissory note is an electronic note sold in accordance with A2-4.1-03, Electronic Records, Signatures, and Transactions. Lenders that are approved to deliver eMortgages may refer to the Guide to Delivering eMortgages to Fannie Mae for additional information.

Q40. **What are Fannie Mae's requirements concerning "gap coverage" in lenders' title insurance policies?**

The *Selling Guide* Chapter B7-2 requires a loan title insurance policy that satisfies Fannie Mae's requirements, written on the 2006 ALTA loan title insurance form or local equivalent, be obtained by a lender before a mortgage loan is sold to Fannie Mae.

The 2006 ALTA form includes "gap coverage" in Covered Risk 14 for matters arising between the date a mortgage loan is closed and when the mortgage is recorded. Similarly, if title insurance is obtained on an alternate form, the *Selling Guide* requires coverage be provided for the period between the closing date of the loan and the date when the mortgage is recorded.

Lenders must continue to ensure that no unacceptable title impediments or policy exceptions exist in accordance with B7-2-05, Title Exceptions and Impediments.