

## **Selling Guide Announcement SEL-2015-07**

June 30, 2015

### ***Selling Guide* and Other Updates**

The *Selling Guide* has been updated for the following:

- Conversion of Principal Residence Requirements No Longer Apply
- Stocks, Bonds, and Mutual Funds
- Unreimbursed Employee Business Expenses
- Tip Income
- Use of IRS W-2 Transcripts in Lieu of W-2s
- New Closing Disclosure and Loan Estimate Forms
- Permit Prepayment Penalties on Subordinate Liens
- RD Section 502 Leveraged (Blended) Programs Allowed as Community Seconds®
- Seller/Service Net Worth and Liquidity Requirements
- Optional Data Fields on the *Verification of Employment* (Form 1005 and 1005 (S))
- Loan-level Defect Reporting of Nonpublic Personal Information to Lenders
- Custodian Tracking of Fannie Mae Loan Numbers
- 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 June 30, 2015.

In addition, revisions made to the following uniform instruments are described in this Announcement:

- Texas Home Equity Affidavit and Agreement (Form 3185)
- Instructions for the Arizona Deed of Trust (Form 3003)

### **Conversion of Principal Residence Requirements No Longer Apply**

This policy, imposed during the height of the financial crisis, was intended to be temporary in nature. The purpose of this policy has been to ensure that borrowers have adequate capacity and financial reserves to successfully manage multiple properties. It requires manual application by lenders for loan casefiles submitted to Desktop Underwriter® (DU®). Because there are other policies now in place that adequately address credit history, rental income, and financial reserves, Fannie Mae is eliminating the requirements specifically associated with the conversion of a principal residence to a second home or investment property.

Lenders should follow the standard rental income and financial reserve requirements when the borrower converts his or her current principal residence to an investment property.

### **Updated Selling Guide Topics**

- Topic [B3-6-06](#), Qualifying Impact of Other Real Estate Owned (Qualifying Considerations, Current Principal Residence Pending Sale)
- Topic [B3-4.1-01](#), Minimum Reserve Requirements (Determining Required Minimum Reserves, Principal Residence)

**NOTE:** Reference to this policy has been removed from the “Notes” page (page 8) of the Eligibility Matrix.

### **Effective Date**

These updates are effective immediately. DU will be updated the weekend of August 15, 2015, to reflect these policy changes. Refer to the [DU Version 9.2 August Update Release Notes](#).

## **Stocks, Bonds, and Mutual Funds**

Fannie Mae is updating the policies related to the use of vested stocks, bonds, and mutual funds (including retirement accounts) when they are used for down payment, closing costs, and reserves. Instead of requiring a standard reduction in value, the policies have been simplified as follows:

- One hundred percent (100%) of the value of the asset is allowed when determining available reserves.
- If the lender documents that the value of the asset is at least 20% more than the funds needed for the borrower’s down payment and closing costs, no documentation of liquidation is required. Otherwise, documentation of the borrower’s actual receipt of funds realized from the sale or liquidation must be obtained.

**NOTE:** As a reminder, non-vested assets are not eligible for down payment, closing costs, or reserves.

### **Updated Selling Guide Topics**

- [B3-4.1-01](#), Minimum Reserve Requirements (Acceptable Sources of Reserves; Unacceptable Sources of Reserves)
- [B3-4.3-01](#), Stocks, Stock Options, Bonds, and Mutual Funds
- [B3-4.3-03](#), Retirement Accounts

### **Effective Date**

These updates are effective immediately. DU will be updated the weekend of August 15, 2015 to reflect these policy changes. Refer to the [DU Version 9.2 August Update Release Notes](#).

## **Unreimbursed Employee Business Expenses**

The following changes and clarifications have been made to the *Selling Guide* related to unreimbursed employee business expenses.

- For a borrower who is qualified using base pay, bonus, overtime, or commission income less than 25% of the borrower’s annual employment income:
  - Unreimbursed employee business expenses are not required to be analyzed or deducted from the borrower’s qualifying income, or added to monthly liabilities. This applies regardless of whether unreimbursed employee business expenses are identified on tax returns (IRS Form 2106) or tax transcripts received from the IRS.

- Union dues and other voluntary deductions identified on the borrower's paystub do not need to be deducted from the borrower's income or treated as a liability.
- The Guide now clearly states that tax returns are not required to document these sources of income.
- For borrowers earning commission income that is 25% or more of annual employment income, unreimbursed employee business expenses must be deducted from gross commission income regardless of the length of time that the borrower has filed that expense with the IRS.
  - The exception to this is if the expense is an actual automobile lease or loan payment. If borrowers report an automobile allowance as part of their monthly qualifying income, the lender must determine if the automobile expenses reported on IRS Form 2106 should be deducted from income or treated as a liability. The *Selling Guide* describes how the lender is to make this determination.

### **Updated Selling Guide Topics**

- [B3-3.1-04](#), Commission Income (Verification of Commission Income)
- [B3-3.2.1-03](#), Deductions Reported on IRS Form 2106 (Business Expenses)
- [B3-6-01](#), General Information on Liabilities (Monthly Obligations Not Included in Liabilities)
- [B3-6-05](#), Monthly Debt Obligations (Unreimbursed Employee Business Expenses)

### **Effective Date**

These policy changes are effective immediately.

## **Tip Income**

Fannie Mae allows tip income to be included in qualifying income if the lender can verify that the borrower has received the income for the last two years. Tip income can be verified using a *Request for Verification of Employment* (Form 1005 or Form 1005 (S)), or recent paystubs and IRS W-2 forms.

In some cases, the full amount of the tip income earned by the borrower may not be reported by the employer on the Form 1005, paystub and W-2 form. However, the borrower may report additional tip income to the IRS using Form 4137, Social Security and Medicare Tax on Unreported Tip Income, when filing his or her tax returns. Fannie Mae will allow this tip income to be used in qualifying if the lender obtains the most recent two years of federal income tax returns with Form 4137.

### **Updated Selling Guide Topics**

- [B3-3.1-09](#), Other Sources of Income (Tip Income)
- [B3-3.1-01](#), General Income Information (Determining the Need for Federal Income Tax Returns)

### **Effective Date**

This update is effective immediately.

## **Use of IRS W-2 Transcripts in Lieu of W-2s**

When lenders verify employment income for borrowers whose income is used to qualify for the mortgage loan, borrower-provided paystubs and IRS W-2 forms are one option that can be utilized to document the income. In lieu of W-2 forms, other documentation options are a *Request for Verification of Employment* (Form 1005 or

Form 1005 (S)) or the final year-to-date paystub. Fannie Mae will also now permit an IRS “Wage and Income Transcript” (W-2 transcript) in lieu of the actual W-2 forms.

### **Updated Selling Guide Topics**

- [B3-3.1-06](#), Requirements and Uses of IRS Form 4506-T (Use of IRS Forms to Obtain Federal Income Tax Information)

### **Effective Date**

This update is effective immediately.

## **New Closing Disclosure and Loan Estimate Forms**

The Dodd-Frank Act authorizes the Consumer Financial Protection Bureau (CFPB) to ensure that the markets for consumer financial services are fair and transparent. To that end, the CFPB published new Closing Disclosure and Loan Estimate forms replacing the HUD-1 Settlement Statement, Good Faith Estimate, and Truth in Lending Act disclosures, with the goal of making these forms more consumer friendly and easier to understand. The *Selling Guide* has been updated to reflect the following with regard to the Closing Disclosure and Loan Estimate:

- In acknowledgement of the transition to the new forms, and the fact that lenders will continue to deliver loans with the old and new forms to Fannie Mae for a period of time,
  - a new glossary term for “settlement statement” has been added, defining it as the HUD-1 Settlement Statement or Closing Disclosure, as applicable. All references in the Guide to the “HUD-1 Settlement Statement” have been replaced with “settlement statement.”
  - a new glossary term for “loan estimate” has been added, defining it as the Good Faith Estimate or Loan Estimate, as applicable. All references to the “Good Faith Estimate” in the Guide have been replaced with “loan estimate.”
- Lenders are required to maintain copies of the loan estimate and final settlement statement (including any redisclosures) in the mortgage loan file. In keeping with the form requirements of CFPB, Fannie Mae will not require that the borrower and seller (if applicable) sign the Closing Disclosure or Loan Estimate. Though these signatures are not required, lenders may obtain borrower and seller signatures, which Fannie Mae supports as a best practice, especially on the Closing Disclosure.

**NOTE:** *This is a change in policy from what had been previously announced in communication related to the Uniform Closing Disclosure dataset. This policy change provides lenders with additional flexibility.*

- If there are separate Closing Disclosures for the borrower and seller, the lender must retain copies of each in the mortgage loan file.
- Lenders must use the version of the Closing Disclosure that is applicable to the transaction; for example, the lender may not use the purchase version of the form for a refinance transaction.
- The requirement for a separate escrow waiver disclosure has been removed from the *Selling Guide* because a similar disclosure is now part of the Closing Disclosure.
- In a few topics in the Guide, references to items on the settlement statement itself were removed, in light of changes made to content of the Closing Disclosure. For example, there is no space on the updated form to note the reason for a principal curtailment, so that reference was removed from B2-1.4-05, Principal Curtailments. The reason for a principal curtailment must be documented elsewhere in the mortgage file.

The *Post-Closing Loan File Document Checklist* (Form 1032) will also be updated to reflect the Closing Disclosure and Loan Estimate forms.

## Updated Selling Guide Topics

- [A2-5.1-02](#), Individual Mortgage Loan Files (Contents of a Mortgage Loan File)
- [B2-1.2-01](#), Purchase Transactions (General Purchase Transaction Eligibility Requirements, and Purchase of Preforeclosure or Short Sale Properties—Allowable Fees, Assessments, and Payments)
- [B2-1.2-02](#), Limited Cash-Out Refinance Transactions (Cash Back to the Borrower, and Documentation Requirements)
- [B2-1.3-02](#), Adjustable-Rate Mortgages (ARMs) (ARM Disclosures)
- [B2-1.4-04](#), Escrow Accounts (Escrow Waivers)
- [B2-1.4-05](#), Principal Curtailments (Documentation)
- [D1-3-05](#), Lender Post-Closing Quality Control Review of Closing Documents (Review of Transaction and Closing Documents)
- [E-3-08](#), Glossary of Fannie Mae Terms: H
- [E-3-12](#), Glossary of Fannie Mae Terms: L
- [E-3-19](#), Glossary of Fannie Mae Terms: S

**NOTE:** This update affected a few other topics; however, because the change made did not impact any policies but simply substituted “settlement statement” for “HUD-1 Settlement Statement,” the topic date was not updated.

### Effective Date

Lenders must use the new forms when required by CFPB’s Regulation.

## Permit Prepayment Penalties on Subordinate Liens

When Fannie Mae purchases or securitizes a first-lien mortgage that is subject to subordinate financing, the subordinate financing must meet certain requirements. One such requirement is that the subordinate financing not include any prepayment penalties or other prepayment restrictions. The intent of this policy was to guard against predatory lending and unduly severe prepayment penalty scenarios. Over time, however, regulatory changes have increased borrower protections in this regard, serving to prohibit, limit or otherwise deter imposition of prepayment penalties. As a result, this restriction is no longer considered necessary and is being removed.

## Updated Selling Guide Topics

- [B2-1.1-04](#), Subordinate Financing (Unacceptable Subordinate Financing Terms)

### Effective Date

This update is effective immediately.

## RD Section 502 Leveraged (Blended) Programs Allowed as Community Seconds

To further expand access to rural housing, Fannie Mae will now purchase conventional first mortgage loans under the Rural Development (RD) 502 Leveraged (Blended) Loan Program that are combined with a direct, low interest rate subordinate Section 502 lien from RD. The subordinate lien will be considered eligible under the Community Seconds program. The standard review of Community Seconds programs described in B5-5.1-01, Community Seconds Mortgages, is not required; however, the subordinate lien must meet all RD guidelines. As with any Community Seconds mortgage, Fannie Mae does not purchase the subordinate lien.

As a related clarification, Fannie Mae is adding “federal agency” to the list of eligible providers of funding for Community Seconds.

Special Feature Codes 118 and 220 must be reported when the first mortgage is delivered to Fannie Mae in connection with a Section 502 Leveraged (Blended) subordinate lien as a Community Seconds.

**NOTE:** *The Special Feature Code list has been updated to include SFC 220.*

### **Updated Selling Guide Topics**

- [B2-1.1-04](#), Subordinate Financing (Subordinate Financing Requirements, Resubordination Requirements for Refinance Transactions)
- [B5-5.1-02](#), Community Seconds Loan Eligibility (Community Seconds Mortgage Terms/Proceeds, Rural Development 502 Leveraged (Blended) Loan Program)
- [B6-1-05](#), Eligible RD-Guaranteed Mortgages (Section 502 Leveraged (Blended) Loan Program, Delivery Requirements)

### **Effective Date**

This update is effective immediately.

## **Seller/Servicer Net Worth and Liquidity Requirements**

As announced in *Servicing Announcement SVC-2015-08, Servicer Eligibility and Oversight Requirements*, on May 20, 2015, Fannie Mae updated its seller/servicer net worth and minimum liquidity requirements. The *Selling Guide* has been updated to reflect the following requirements:

- All approved sellers/servicers must have and maintain a Lender Adjusted Net Worth of at least \$2.5 million, plus a dollar amount that represents 0.25% of the unpaid principal balance of the seller/servicer’s total portfolio of mortgage loans serviced. (The Lender Adjusted Net Worth for subservicers does not include mortgage loans serviced under a subservicing arrangement.)
- Sellers/servicers that are depository institutions are required to meet the minimum regulatory capital requirements to be classified as “well capitalized” by their primary regulator.
- All other entities must have a minimum Lender Adjusted Net Worth/Total Assets ratio of 6%, or equivalent, as determined by Fannie Mae.
- Approved non-depository sellers/servicers must have and maintain a minimum liquidity requirement based on the Agency Serious Delinquency Rate, which is defined in the Guides.

In addition to the changes described above, the definitions for master servicer, servicer, subservicer, and subservicing arrangement have been updated to align with the definitions in the *Servicing Guide*. The term “lender” has been replaced with “seller/servicer” in topic A4-2-01 to more closely align with the similar topic in the *Servicing Guide*.

Refer to SVC-2015-08 for additional updates that pertain only to servicing policies.

### **Updated Selling Guide Topics**

- [A3-3-03](#), Subservicing (General Requirements for Subservicing Arrangements)
- [A4-2-01](#), Net Worth, Liquidity, and Credit Rating Requirements
- [E-3-13](#), Glossary of Fannie Mae Terms: M
- [E-3-19](#), Glossary of Fannie Mae Terms: S



### **Effective Date**

Sellers/servicers must be in compliance with these requirements by December 31, 2015.

## **Optional Data Fields on *Verification of Employment* (Form 1005 and 1005 (S))**

Optional Data Fields on the *Verification of Employment* (Form 1005 and 1005 (S)). The *Verification of Employment* (Form 1005 and Form 1005 (S)) may be used to document income for a salaried or commissioned borrower in lieu of a paystub and W-2 forms. However, some of the data requested by the form is not generally provided by employers, nor is it available on paystubs and W-2s. As a result, the Guide now specifically lists which data fields on the form are optional and need not be completed.

### **Updated Selling Guide Topics**

- [B3-3.1-02](#), Standards for Employment Documentation (Employment Documentation Provided by the Borrower's Employer)

### **Effective Date**

This update is effective immediately.

## **Loan-level Defect Reporting of Nonpublic Personal Information to Lenders**

To make its loan review findings more useful to lenders, Fannie Mae intends to expand some of the reporting detail made available on specific loans. As this data may include limited borrower nonpublic personal information ("NPI"), Fannie Mae is updating the *Selling Guide* to address potential compliance obligations that might arise under the Gramm-Leach-Bliley Act.

The updated Guide specifies that the release of this data is in compliance with permitted purposes outlined in the Gramm-Leach-Bliley Act and other applicable privacy laws. Lenders must use that data only for those limited permitted purposes.

The additional loan-level data provided will enable a lender to more easily review its files and practices to manage and detect issues that might lead to fraud or heightened internal risk.

Note that the *Servicing Guide* will also be updated in the future to incorporate these changes.

### **Updated Selling Guide Topics**

- [A3-4-01](#), Confidentiality of Information/Conflict of Interest Parameters
- [D2-1-03](#), Fannie Mae QC Report of Findings and Lender Rebuttal (Fannie Mae QC Report of Findings)

### **Effective Date**

This update is effective immediately.

## **Custodian Tracking of Fannie Mae Loan Numbers**

The *Selling Guide* currently requires lenders to provide the Fannie Mae loan number for every mortgage loan to their mortgage loan servicers; however, lenders have not been required to provide those loan numbers to document custodians. The *Selling Guide* has been updated to require lenders to ensure that the document custodian receives, within 30 days of loan certification, the Fannie Mae loan number for every mortgage loan for which the document custodian provides custodial services and respond, within three business days, to any request from the document custodian for the Fannie Mae loan number. Document custodians are required to

have a process in place to obtain and retain the Fannie Mae loan number from lenders for every loan for which they provide custodial services, and be able to perform reconciliations using the Fannie Mae loan number.

The *Requirements for Document Custodians* guide was updated to reflect these and other changes. Refer to Section 1, Document Revision History, for a list and description of the updates. In addition, the *Fannie Mae Servicing Guide* was updated. Both are available on [Fannie Mae's website](#).

**NOTE:** NOTE: *The Annual Statement of Eligibility for Document Custodians (Form 2001) will be updated at a later date to reflect this policy change.*

### **Updated Selling Guide Topics**

- [A3-3.1-01](#), Operational Requirements for all Document Custodians (Operating Standards)
- [C1-2-02](#), Loan Data and Documentation Delivery Requirements (Loan Delivery Application Resources, Delivery of the Fannie Mae Loan Number to the Document Custodian)

### **Effective Date**

Lenders are encouraged to implement these requirements immediately; however, lenders are required to implement these requirements for all mortgage loans certified by Fannie Mae on and after October 1, 2015.

### **Miscellaneous Selling Guide Updates**

- [B2-1.4-02](#), **Mortgage Loan Eligibility (Ability to Repay Loan Eligibility Requirements)**. Pending changes to the Official Commentary to 12 CFR 1026.03 will treat non-investment property loans made to estate planning trusts (such as *inter vivos* trusts) as consumer credit, making these trusts subject to the Truth in Lending Act. References to *inter vivos* trusts in this topic have been modified accordingly. This will apply when the change to the Official Commentary goes into effect.

### **Revisions to Uniform Instruments**

**Texas Home Equity Affidavit and Agreement (Form 3185)**. The Texas Home Equity Affidavit and Agreement (Form 3185) has been updated to reflect new disclosure requirements under the Truth in Lending Act and the Real Estate Settlement Procedures Act (TRID) and remove reference to the HUD-1 Settlement Statement. Lenders may begin using the revised form immediately and must use the revised form for mortgage loans with application dates on or after the effective date published by the CFPB. The updated Form 3185 is available on [Fannie Mae's website](#).

**Instructions for the Arizona Deed of Trust (Form 3003)**. A change has been added to the Instructions for the Arizona Deed of Trust (Form 3003) to permit lenders to add the words, "Residential 1-4," to the first page of the document. The updated Instructions for Form 3003 are available on [Fannie Mae's website](#).

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

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