

Selling Guide Announcement SEL-2013-03

April 9, 2013

Selling Guide and Other Updates

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

- Representation and Warranty Framework
- Approval to Deliver Electronic Mortgage Loans
- Financial Rating for Moody's Investors Service
- Incorporation of Announcement SEL-2013-02, *Selling Guide Updates*
- 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 April 9, 2013.

In addition, updates to the following are described in this Announcement:

- Authorized Changes to Uniform Instruments
- Special Feature Codes

Representation and Warranty Framework

During September and October of 2012, Fannie Mae issued a number of announcements and lender letters that described the new selling representation and warranty framework, impacts to Fannie Mae's quality control review processes, alternatives to repurchase requests, and other related changes. The *Selling Guide* has been updated to incorporate some or all of the following documents:

- Announcement SEL-2012-08, *New Lender Selling Representations and Warranties Framework*
- Announcement SVC-2012-21, *Servicing Guide Updates to Conform to the FHFA Directive on Harmonized Contracts*
- Lender Letter LL-2012-05, *Fannie Mae's Quality Control Process*
- Lender Letter LL-2012-07, *Fannie Mae's Quality Control Process – Additional Information*

In addition, other updates were made to clarify certain policies, reorganize like content, and remove redundant text. The updates to the *Selling Guide* are extensive and are itemized in the Attachment to this Announcement. The major updates are summarized in the following table.

Part of the <i>Selling Guide</i>	Summary of Updates
Part A, Subpart A2, Lender Contract	<ul style="list-style-type: none"> ▪ Incorporation of SEL-2012-08 in two new topics: <ul style="list-style-type: none"> • A2-2.1-06, Life of Loan Representations and Warranties, and • A2-3.2-02, Enforcement Relief for Breaches of Certain Representations and Warranties Related to Underwriting and

Part of the <i>Selling Guide</i>	Summary of Updates
	<p>Eligibility.</p> <p>Note: A number of links to these two topics were added throughout this Subpart from other relevant topics.</p> <ul style="list-style-type: none"> ▪ Addition of alternatives to repurchase requests from LL-2012-07 in a new topic, A2-3.2-03, Additional Policies Related to Mortgage Loan Repurchases. ▪ Addition of references to “make whole payment” (reimbursement demands after a property has been liquidated) when discussing repurchases. ▪ Addition of governing law policy from SVC-2012-21. ▪ Revision of loan repurchase policies in accordance with the new representation and warranty framework, including removal of the prior policy that restricted repurchase requests for performing mortgage loans. As a result, A2-3.2-03, No Repurchase of Performing Mortgages for Breach of Contractual Selling Warranties, was retired. ▪ Introduction of the term “responsible party” from SVC-2012-21 in relation to repurchase, indemnification, and make whole payments. ▪ Removal of redundant text that existed in this Subpart, particularly related to repurchases and warranty violations, and reorganization of content, including retirement of A2-3.2-02, Repurchases Resulting from Warranty Violations (relevant content in this topic was moved to other topics). ▪ Addition of policy from SVC-2012-21 regarding the appeals process and timeframes within which lenders must pay Fannie Mae funds that are due in connection with a repurchase, indemnification, or make whole payment request.
Part A, Subpart A3, Getting Started With Fannie Mae	<ul style="list-style-type: none"> ▪ Reference to the life of loan representations and warranties was added to A3-4-02, Data Quality and Integrity; and A3-4-03, Preventing, Detecting, and Reporting Mortgage Fraud.
Part B, Origination Through Closing	<ul style="list-style-type: none"> ▪ Per the terms of the <i>Mortgage Selling and Servicing Contract (MSSC)</i>, the lender makes certain warranties when selling a mortgage loan to Fannie Mae. One of the specific warranties made by the lender is that the mortgage loan conforms to all the applicable requirements in the <i>Selling and Servicing Guides</i> and the MSSC. Part B of the Guide currently includes a number of distinct representations and/or warranties for certain policies. Because lenders make the specific warranty about compliance with the <i>entire Selling Guide</i>, Fannie Mae has revised these distinct representations and/or warranties in Part B and changed them to specific requirements.

Part of the <i>Selling Guide</i>	Summary of Updates
Part D, Subpart D2, Fannie Mae QC Process	<ul style="list-style-type: none"> ▪ Revision of general information regarding Fannie Mae's QC policies and procedures for review and reporting of findings for performing and nonperforming mortgage loans. ▪ Revision of file delivery timelines and document submission requirements. ▪ Reorganization of content pertaining to the appeals process, including the retirement of D2-1-04, Rebuttal of Fannie Mae QC Review Decisions.
Part E, Quick Reference Materials	<ul style="list-style-type: none"> ▪ Updates to post-closing mortgage loan file documentation requirements.

NOTE: *In Announcement SEL-2012-08, Fannie Mae announced a policy regarding an automatic repurchase request for any mortgage loan for which no full monthly payment was made for the first three months after acquisition. That policy has been retracted and it will not be implemented (nor was it placed in the Selling Guide). Fannie Mae will continue its current practice of conducting quality control reviews of mortgages that exhibit early payment defaults. The percentage of mortgages delivered to Fannie Mae that fall into this category is minimal and is expected to remain so.*

Effective Date

As previously communicated in SEL-2012-08 and SVC-2012-21, the updates were effective for mortgage loans purchased, securitized, or serviced on and after January 1, 2013.

Approval to Deliver Electronic Mortgage Loans

Currently, lenders are required to obtain a variance to their Master Agreement in order to deliver electronic mortgage loans (eMortgages) to Fannie Mae. Fannie Mae would like to expand adoption of eMortgages to more small- and medium-sized lenders; however, most small- and medium-sized lenders do not have a Master Agreement. Therefore, all lenders that wish to deliver eMortgages must obtain special approval evidenced by an addendum to their *Mortgage Selling and Servicing Contract* (MSSC) and not by a variance to their Master Agreement.

This requirement has been updated in Fannie Mae's [Guide to Delivering eMortgage Loans to Fannie Mae](#) and will be in a future update of the *Servicing Guide*.

Updated Selling Guide Topics

- [A1-1-01](#), Application and Approval of Lender (Special Lender Approval)
- [A2-5.1-03](#), Electronic Records, Signature, and Transactions (Electronic Records, General Rules on Transactions with Fannie Mae)
- [E-3-05](#), Glossary of Fannie Mae Terms: E (electronic mortgage)

Effective Date

This requirement is effective immediately. Lenders that currently have variances will still be contractually entitled to deliver eMortgages to Fannie Mae until they are converted over to an addendum to their MSSC.

Financial Rating for Moody's Investors Service

The *Selling Guide* has been clarified to reflect Moody's Investors Service alphanumeric rating of "Baa2" instead of "Baa." This rating designation applies to Fannie Mae's eligibility requirements for document custodians and title insurers.

Updated Selling Guide Topics

- [A3-3-04](#), Document Custodians (Eligibility Criteria for Document Custodians)
- [B7-2-02](#), Title Insurer Requirements (Rating Requirements)

Effective Date

This clarification is effective immediately.

Incorporation of Announcement SEL-2013-02, *Selling Guide Updates*

The *Selling Guide* has been updated to reflect the policy changes previously announced in SEL-2013-02.

Lender Incentives for Borrowers

Lenders may offer a refinancing incentive to encourage borrowers to refinance through DU Refi Plus™ and Refi Plus™ transactions in the form of a payment to pay off a portion of the mortgage loan being refinanced. Lenders may also provide borrowers with a cash or cash-like (e.g., gift card) incentive (available for all transaction types).

Updated Selling Guide Topics

- [B3-4.1-02](#), Interested Party Contributions (IPCs) (Lender Incentives for Borrowers)
- [B5-5.2-01](#), DU Refi Plus and Refi Plus Eligibility (Lender Incentives for Borrowers)
- [B5-5.2-04](#), DU Refi Plus and Refi Plus Closing, Pricing, and Delivery (Cash Back to the Borrower at Closing)

Private Flood Insurance Policies

Fannie Mae accepts flood insurance from private providers as an alternative to National Flood Insurance Program (NFIP) policies as required by the Biggert-Waters Flood Insurance Reform Act of 2012. The terms and amount of coverage provided under a private policy must be at least equal to that provided under an NFIP policy and the private insurer must meet Fannie Mae's rating requirements for insurance underwriters (described in B7-3-01, Hazard Insurance Policy Requirements).

Updated Selling Guide Topics

- [B7-3-07](#), Flood Insurance Coverage Requirements
- [E-3-06](#), Glossary of Fannie Mae Terms: F (Flood Insurance Rate Map (FIRM))

Miscellaneous *Selling Guide Updates*

The following miscellaneous changes have been made to the *Selling Guide*:

- [A1-1-01](#), Application and Approval of Lender, and [A2-4-01](#), Master Agreement Overview. The distinction between special lender approvals that result in an addendum to a lender's MSSC and negotiated terms that result in a variance in a lender's Master Agreement was further clarified.

- [B2-1.1-01](#), Loan-to-Value (LTV) Ratios. The term “original loan amount” was clarified as being synonymous with the loan amount as indicated on the note.
- [B2-1.3-02](#), Adjustable-Rate Mortgages (ARMs). The generic ARM Plan for ARMs with negative amortization is being removed from DU in the upcoming May release because DU no longer supports the underwriting of these ARMs. As a result, the *Selling Guide* was also updated to remove the reference to the FM-GENERIC, NEGATIVE AMORTIZATION plan.
- [B3-6-07](#), Debts Paid Off At/Prior to Closing. With the upcoming Desktop Underwriter® (DU®) release in May, the messaging regarding how DU treats 30-day charge accounts is being changed. To remain consistent, a sentence was added to this topic.
- [B8-5-02](#), *Inter Vivos* Revocable Trust Mortgage Documentation and Signature Requirements. The topic title was changed from “*Inter Vivos* Revocable Trusts” to match the topic contents.
- [E-3-12](#), Glossary of Fannie Mae Terms (L). The definition of loan amount was clarified.

Effective Date

These changes are effective immediately.

Authorized Changes to Uniform Instruments

To comply with the requirements of the Truth in Lending Act and Regulation Z (12 C.F.R. § 1026.36(g)), lenders are authorized to add to the last page of the note and the last page of the security instrument the name of the mortgage loan originator and the Nationwide Mortgage Licensing System and Registry (NMLSR) Identification (ID) Number for both an organization and individual. This information must be placed below the borrower signature lines and any notary section. If state or local law requires the placement of this information in a different location on the legal documents, lenders may place the loan originator name and NMLSR ID in an alternate location in order to comply with applicable requirements.

This instruction has been placed on the [Legal Documents](#) page of Fannie Mae’s website. It did not require an update to the *Selling Guide*.

Effective Date

Lenders may implement this change immediately and must implement it by no later than January 10, 2014.


Special Feature Codes

Special Feature Code (SFC) 439, Non-U.S. Citizen Borrower has been retired. The [Special Feature Codes](#) document published on Fannie Mae’s website has been updated accordingly.

Effective Date

This change is effective immediately. Lenders are no longer required to report this code for any loan.

NOTE: For DU Version 8.3 loan casefiles, lenders may disregard the DU findings message listing SFC 439 as one that may be associated with the loan.



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

John Forlines
Senior Vice President
Chief Credit Officer for Single-Family

Attachment

This table briefly describes the updates that have been made in the April 9, 2013, *Selling Guide* for the representation and warranty framework. Additional updates were made to clarify policies, reorganize like content, and remove redundant text. These are also described below. (Minor grammatical or other formatting changes are not identified.) Refer to the specific topics in the *Selling Guide* to see the actual changes. In the event of any discrepancy between the information in this Attachment and the *Selling Guide*, the provisions in the *Selling Guide* will prevail.

Topic Number and Title	Summary of Updates
Part A, Doing Business with Fannie Mae	
A2-1-01 , Contractual Obligations for Lenders	<ul style="list-style-type: none"> ▪ Added several references to the “Lender Contract” where applicable. ▪ Added reference to additional agreements and contracts that lenders are bound by (in addition to the MSSC, <i>Selling and Servicing Guides</i>, and announcements, etc.). ▪ Added new governing law policy.
A2-1-03 , Indemnification for Losses	<ul style="list-style-type: none"> ▪ Added references to new topics regarding representation and warranties and additional repurchase policies.
A2-2-01 , Contractual Representations and Warranties	<ul style="list-style-type: none"> ▪ Added reference to new representation and warranties topic.
A2-2.1-02 , Delivery Information and Delivery-Option Specific Representations and Warranties	<ul style="list-style-type: none"> ▪ Clarified the lender’s indemnification obligation with respect to third-party claims. ▪ Clarified representation and warranty and recourse obligations with regard to transfers of servicing.
A2-2.1-03 , Document Warranties	<ul style="list-style-type: none"> ▪ Clarified that nonstandard document warranties are required if “current” Fannie Mae instruments are not utilized.
A2-2.1-04 , Limited Waiver of Contractual Warranties for Mortgages Submitted to DU	<ul style="list-style-type: none"> ▪ Revised references to “streamlined” documentation and property valuation requirements.
A2-2.1-06 , Life of Loan Representations and Warranties	<ul style="list-style-type: none"> ▪ New topic that describes the life of loan representations and warranties announced in Announcement SEL-2012-08. <p>Note: Minor updates to the text were made in this topic from what was announced.</p>
A2-3.1-01 , Lender Breach of Contract	<ul style="list-style-type: none"> ▪ Clarified lender breach of contract policies as a result of the new representation and warranty framework. ▪ Clarified the policies regarding alternatives to contract termination.
A2-3.1-02 , Sanctions, Suspensions, and Terminations	<ul style="list-style-type: none"> ▪ Clarified that the lender is responsible for all reasonable and customary costs and expenses related to the transfer of servicing in connection with a lender’s voluntary termination.
A2-3.2-01 , Loan Repurchases and Make Whole Payments Requested by Fannie Mae	<ul style="list-style-type: none"> ▪ Topic was renamed and text was updated to address make whole payments in addition to repurchases. ▪ Clarified the types of loan reviews that Fannie Mae may perform. ▪ Updated repurchase (and make whole) policies in accordance with the representation and warranty framework.

Topic Number and Title	Summary of Updates
	<ul style="list-style-type: none"> ▪ Added the concept of “responsible party.” ▪ Moved text from retired topic pertaining to violation of contractual warranty and redelivery of repurchased loans. ▪ Removed redundant text that appears in other topics. ▪ Clarified policies pertaining to the repurchase price of loans.
A2-3.2-02, Repurchases Resulting From Warranty	<ul style="list-style-type: none"> ▪ Topic was retired; content moved to prior topic.
A2-3.2-03, No Repurchase of Performing Mortgages for Breach of Contractual Selling Warranties	<ul style="list-style-type: none"> ▪ Topic was retired.
A2-3.2-02 , Enforcement Relief for Breaches of Certain Representations and Warranties Related to Underwriting and Eligibility	<ul style="list-style-type: none"> ▪ New topic that describes the framework that provides lenders with relief from enforcement of remedies for breaches of certain representations and warranties as announced in Announcement SEL-2012-08. ▪ Added a clarifying statement regarding seasoned loans.
A2-3.2-03 , Additional Policies Related to Mortgage Loan Repurchases	<ul style="list-style-type: none"> ▪ New topic that describes the following: <ul style="list-style-type: none"> • alternatives to mortgage loan repurchase, • conditions to Fannie Mae offering repurchase alternatives (moved from a retired topic), • time frames for payment of repurchase proceeds, and • repurchase appeal process.
A2-3.3-01 , Compensatory Fees	<ul style="list-style-type: none"> ▪ Added a reference directing lenders to see the <i>Servicing Guide</i> for additional information about compensatory fees.
A2-4-03 , Variances and Special Provisions	<ul style="list-style-type: none"> ▪ Added a statement that unless the Master Agreement states otherwise, mortgage loans with certain variances are eligible for relief under the representation and warranty framework.
A2-4-04 , Breaches of a Master Agreement	<ul style="list-style-type: none"> ▪ Added language consistent with A2-3.1-01, Lender Breach of Contract.
A2-5.1-01 , Overview of Mortgage Files and Records	<ul style="list-style-type: none"> ▪ Clarified that mortgage files and records include any document created in connection with the mortgage loan.
A2-5.1-03 , Electronic Records, Signature, and Transactions	<ul style="list-style-type: none"> ▪ Added a statement that Fannie Mae may provide notices, demands, or requests (such as repurchases) to lenders in accordance with the electronic provisions of the <i>Selling Guide</i>.
A2-5.2-02 , Access to Records	<ul style="list-style-type: none"> ▪ Clarified that lenders must deliver mortgage records to Fannie Mae (or its designate) with the time frame specified by Fannie Mae.
A2-5.2-03 , Retention and Storage of Mortgage File Records	<ul style="list-style-type: none"> ▪ Added a reference directing lenders to see the <i>Servicing Guide</i> for other record retention requirements that servicers must comply with (such as those pertaining to repurchased mortgage loans).

Topic Number and Title	Summary of Updates
A3-2-01 , Compliance with Laws A3-2-02 , Responsible Lending Practices A3-4-02 , Data Quality and Integrity A-3-4-03 , Preventing, Detecting, and Reporting Mortgage Fraud	<ul style="list-style-type: none"> ▪ Added references to new topics regarding the framework and life of loan representation and warranties.
Part B, Origination Through Closing	
B2-1.1-04 , Subordinate Financing B2-1.3-02 , Adjustable-Rate Mortgages (ARMs) B2-1.3-03 , Convertible ARMs B2-1.3-04 , Refinanced Balloon Mortgages B2-1.4-02 , Mortgage Loan Eligibility B2-2-06 , Home-buyer Education and Counseling	<ul style="list-style-type: none"> ▪ Revised references to specific representations and warranties to reflect applicable policy requirements.
B3-3.2-01 , Underwriting Factors and Documentation for a Self-Employed Borrower	<ul style="list-style-type: none"> ▪ Replaced “underwriting performance review” with “quality control review.”
B4-1.1-01 , General Information on Appraisal Requirements	<ul style="list-style-type: none"> ▪ Updated reference to a link. ▪ Revised reference to a specific representation and warranty to reflect requirement pertaining to compliance with the <i>Appraiser Independence Requirements</i>.
B4-1.1-03 , Appraiser Selection	<ul style="list-style-type: none"> ▪ Revised reference to a specific representation and warranty to reflect requirement pertaining to the value, condition, and marketability of the subject property.
B4-1.2-01 , Age of Appraisal or Age of Property Inspection	<ul style="list-style-type: none"> ▪ Updated reference to a link.
B4-1.2-04 , Requirements for Postponed Improvements	<ul style="list-style-type: none"> ▪ Revised reference to specific representations and warranties to reflect requirements pertaining to postponed improvements and energy improvements.
B5-2.2-01 , Manufactured Housing	<ul style="list-style-type: none"> ▪ Removed the specific policy that stated a lender may have to repurchase a mortgage loan if it was not correctly underwritten in DU, or not identified at delivery with the correct special feature code. (Data accuracy is a component of the life of loan representation and warranty.)
B5-2.2-02 , Manufactured Housing Loan Eligibility	<ul style="list-style-type: none"> ▪ Updated reference to a link.
B5-3.3-01 , Mortgage Loans with Energy Improvement Features on Existing Properties	<ul style="list-style-type: none"> ▪ Updated reference to a link.
B5-5.1-01 , Community Seconds Mortgages	<ul style="list-style-type: none"> ▪ Revised reference to specific representations and warranties to reflect requirement pertaining to title insurance for Community Seconds mortgage loans.
B7-1-01 , Provision of Mortgage Insurance	<ul style="list-style-type: none"> ▪ Revised reference to specific representations and warranties to reflect requirement pertaining to mortgage insurability.

Topic Number and Title	Summary of Updates
B7-1-05 , Government Mortgage Loan Guaranty or Insurance	<ul style="list-style-type: none"> ▪ Revised the repurchase requirement that results from a lender's failure to obtain the required guaranty or insurance.
B7-2-04 , Special Title Insurance Coverage Considerations	<ul style="list-style-type: none"> ▪ Revised reference to a specific representation and warranty to reflect requirements pertaining to title policies for co-op share loans.
B7-2-05 , Title Exceptions and Impediments	<ul style="list-style-type: none"> ▪ Revised reference to specific lender warranties to reflect requirements pertaining to title exceptions and impediments.
B8-6-02 , Mortgage Assignment to Fannie Mae	<ul style="list-style-type: none"> ▪ Revised reference to a specific lender warranty to reflect requirement pertaining to missing assignment recordation data.
Part D, Ensuring Quality Control (QC)	
D2-1-01 , General Information on Fannie Mae QC Reviews	<ul style="list-style-type: none"> ▪ Revised Fannie Mae's QC policy to reflect general information about the types of sampling that is performed and information about the feedback process.
D2-1-02 , Fannie Mae QC File Request and Submission Requirements	<ul style="list-style-type: none"> ▪ Revised requirements pertaining to the lender's document submission process and file delivery timelines.
D2-1-03 , Fannie Mae QC Report of Findings and Lender Rebuttal	<ul style="list-style-type: none"> ▪ Topic was renamed. Rebuttal information moved to this topic (and updated) from a retired topic. ▪ Revised the information pertaining to Fannie Mae's reporting of QC findings and subsequent repurchase requests.
D2-1-04 , Rebuttal of Fannie Mae QC Review Decisions	<ul style="list-style-type: none"> ▪ Topic was retired.
Part E, Quick Reference Material	
Glossary of Fannie Mae Terms	<ul style="list-style-type: none"> ▪ New entries for make whole payment and responsible party. ▪ Updated definition for the National Underwriting Center (NUC). ▪ Removal of underwriting performance review.
E-1-03 , List of Contacts	<ul style="list-style-type: none"> ▪ Updated contact information for: <ul style="list-style-type: none"> • Customer Support Center • Fannie Mae Websites • NUC File Receipt and Assignment • Single-Family Lender Approval
E-2-07 , Post-Closing Mortgage Loan File Documentation	<ul style="list-style-type: none"> ▪ Revised requirements pertaining to the lender's document submission process. ▪ Updated the list of documentation requirements to clarify and add a few missing documents.