FannieMae

Selling Guide Announcement SEL-2014-05

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Lender Selling Representations and Warranties Framework Updates

With this Announcement, Fannie Mae, jointly with Freddie Mac and at the direction of the Federal Housing Finance Agency, is announcing a number of significant enhancements to the selling representations and warranties framework introduced in Announcement SEL-2012-08, *New Lender Selling Representations and Warranties Framework*. These changes are related to how a mortgage becomes eligible for relief from certain specified selling representations and warranties, including the following:

- The acceptable payment history requirement for determining when a mortgage loan is eligible for relief from certain selling representations and warranties is relaxed.
- There will be two alternative paths for eligible mortgages to obtain relief from the selling representations and warranties:
  - either the mortgage must demonstrate an acceptable payment history, or
  - there must be a satisfactory conclusion of a quality control loan file review of the mortgage.
- Fannie Mae will be providing lenders with written notice of mortgages that have met the eligibility requirements for relief.
- Lenders will no longer automatically receive a repurchase request upon notification to Fannie Mae that primary mortgage insurance has been rescinded on a mortgage.

The original selling representations and warranties framework announced in Announcement SEL-2012-08 is referred to as Version 1 of the framework. The original selling representations and warranties framework as modified by the changes described in this Announcement is referred to as Version 2 of the framework.

Effective Dates

Version 1 of the framework is effective for mortgages acquired by Fannie Mae, as follows:

- whole loans purchased on and after January 1, 2013, but before July 1, 2014; and
- mortgage loans delivered into MBS with pool issue dates on and after January 1, 2013, but before July 1, 2014.

Version 2 of the framework, as described in this Announcement, is effective for mortgages acquired by Fannie Mae on and after July 1, 2014, specifically:

- whole loans purchased on and after July 1, 2014; and
- mortgage loans delivered into MBS with pool issue dates on and after July 1, 2014.

Requirements under Version 2 of the Framework

Under Version 2 of the framework, there are two separate, independent paths through which the lender may obtain relief from the selling representations and warranties. Relief will either be based on:

- the borrower's acceptable payment history, or
- a satisfactory conclusion of a quality control loan file review.

Details and timing of relief related to these paths are described below.

Relief Based on Acceptable Payment History

Under Version 2 of the framework, Fannie Mae is relaxing the requirements for relief based on an acceptable payment history so that mortgages that would previously have obtained relief upon the borrower's 60th payment will now receive relief upon the borrower's 36th monthly payment.

For mortgage loans other than Fannie Mae Refi Plus™ and DU Refi Plus™ loans, if the relief is based on the borrower's acceptable payment history, the relief will occur:

- upon payment by the borrower of the first 36 monthly payments due following the mortgage loan acquisition date, provided that the borrower
  - had no more than two 30-day delinquencies;
  - had no 60-day or greater delinquencies; and
  - is not 30 or more days delinquent with respect to the 36th monthly payment.

For Fannie Mae Refi Plus and DU Refi Plus mortgage loans, relief is based on the earlier of:

- payment by the borrower of the first 12 monthly payments due following the mortgage loan acquisition date, provided the borrower had no 30-day or greater delinquencies; or
- payment by the borrower of the first 36 monthly payments due following the mortgage loan acquisition date, provided the borrower
  - had no more than two 30-day delinquencies and no 60-day or greater delinquencies, and
  - is not 30 or more days delinquent with respect to the 36th monthly payment.

> NOTE: *Fannie Mae will also update the acceptable payment history language in the Selling Guide to more clearly state that the acceptable payment history begins on the date of the first monthly payment due after Fannie Mae's acquisition date. This clarification applies Version 1 and Version 2 of the framework.*

Relief Based on a Fannie Mae Quality Control Review

Under Version 2 of the framework, Fannie Mae is adding an alternative path through which mortgages may qualify for relief of the selling representations and warranties after a satisfactory conclusion of a quality control review. These requirements for obtaining relief apply both to performing loans and non-performing loans. As a result, lenders may obtain relief through the quality control path regardless of whether the mortgage loan had an acceptable payment history.

In general, quality control reviews will be conducted in accordance with current quality control review practices as described in Lender Letter LL-2012-05, *Fannie Mae's Quality Control Process* and in Lender Letter LL-2012-07, *Fannie Mae's Quality Control Process—Additional Information.*

If the relief is based on a quality control review, the relief will occur when one of the following takes place:

- Fannie Mae completes the quality control review of the loan file, which includes a review of the credit underwriting and eligibility of the borrower, the property (including its value), and the project in which the property is located, if applicable, and determines that the mortgage is acceptable (that is, it is not subject to a repurchase request).
- Fannie Mae completes the quality control loan file review and determines the mortgage is not acceptable because of a selling deficiency that the *Selling* or *Servicing Guide* specifically identifies

may be cured and the lender cures such deficiency to Fannie Mae's satisfaction in the time frame and manner specified in the *Selling* or *Servicing Guide*. In this case, relief will be effective upon the satisfactory cure of the deficiency. For example, if the mortgage file delivered to Fannie Mae did not contain the required verification of income, the mortgage defect would deemed to be cured if the lender provided the missing documentation requested by Fannie Mae within the time frame specified. Another example of an action taken to correct a deficiency is rectifying a prior mortgage lien by producing evidence of a recorded satisfaction or release of such prior mortgage lien within the time frame specified.

- Fannie Mae completes the quality control loan file review and determines the mortgage is not acceptable but may be eligible for a repurchase alternative which expires or terminates by its terms. In this case, relief will be effective upon the satisfactory expiration or termination of the alternative to repurchase. For example, if Fannie Mae determined a mortgage was not acceptable and, as an alternative to repurchase, Fannie Mae and the lender agreed that the mortgage would be subject to credit enhancement for 5 years, the mortgage would be relieved of the selling representations and warranties at the end of the 5-year period. Other possible alternatives to repurchase include recourse, make-whole arrangements, and certain split loss agreements; in each case, the repurchase alternative must satisfactorily expire or terminate by its terms in order for the affected mortgage to be eligible for relief from the selling representations and warranties under Version 2 of the framework.

Differences Between Version 1 and Version 2 of the Framework

The following chart summarizes the differences between Version 1 and Version 2 of the framework for non-Refi Plus and DU Refi Plus mortgages.

Representations and Warranties Framework – Mortgage Loans other than Refi Plus and DU Refi Plus Mortgages		
Relief Criteria	**Version 1 Announcement SEL-2012-08**	**Version 2 Announcement SEL-2014-05**
Effective dates	Effective for loans acquired on and after January 1, 2013, but before July 1, 2014	Effective for loans acquired on and after July 1, 2014
Number of required consecutive monthly payments	36	36
Number of delinquencies permitted during first 36 monthly payments after Fannie Mae acquisition in order to be eligible for relief after the 36th monthly payment	0 x 30	2 x 30 and 36th monthly payment is not delinquent
Opportunity to re-establish acceptable payment history if there were delinquencies in the first 36 monthly payments after Fannie Mae acquisition?	Yes, as of the 60th monthly payment, provided no more than 2 x 30 delinquencies in first 36 monthly payments and 60th monthly payment is not delinquent	Not applicable
Eligible for relief after satisfactory conclusion of quality control review?	No	Yes

The following chart summarizes the differences between Version 1 and Version 2 of the framework for Refi Plus and DU Refi Plus mortgages.

Representations and Warranties Framework – Refi Plus and DU Refi Plus Mortgages		
Relief Criteria Refi Plus and DU Refi Plus Mortgages	**Version 1 Announcement SEL-2012-08**	**Version 2 Announcement SEL-2014-05**
Effective dates	Effective for loans acquired on and after January 1, 2013, but before July 1, 2014	Effective for loans acquired on and after July 1, 2014
Number of required consecutive monthly payments	12	12
Number of delinquencies permitted during first 12 monthly payments after Fannie Mae acquisition to be eligible for relief after the 12th monthly payment	0 x 30	0 x 30
Opportunity to re-establish acceptable payment history if there were delinquencies in the first 12 monthly payments after Fannie Mae acquisition?	Yes, as of the 60th monthly payment, provided no more than 2 x 30 delinquencies in first 36 monthly payments and 60th monthly payment is not delinquent	Yes, as of the 36th monthly payment, provided no more than 2 x 30 delinquencies in first 36 monthly payments and 36th monthly payment is not delinquent
Eligible for relief after satisfactory conclusion of quality control review?	No	Yes

NOTE: *Other provisions of the selling representations and warranties framework described in the Selling Guide, A2-3.2-02, Enforcement Relief for Breaches of Certain Representations and Warranties Related to Underwriting and Eligibility, have not changed and remain applicable to both Versions of the framework.*

Quality Control Processes Supporting the Framework

With the implementation of Version 2 of the framework, Fannie Mae's quality control review process becomes an integral part of the relief framework. These quality control practices and processes not only help ascertain the quality of mortgages sold to Fannie Mae, they also aid in determining whether the mortgages are eligible for relief from selling representations and warranties.

Fannie Mae's quality control principles, sampling process, and review and enforcement practices will generally remain unchanged as described in Lender Letters LL-2012-05 and LL-2012-07. Fannie Mae's subsequent mortgage file review process and repurchase and appeals process will be updated, however, to reflect the new quality control relief provision that applies upon the satisfactory conclusion of a quality control review.

Fannie Mae will continue to refine the sampling methodology used, based on loan quality and ongoing industry changes.

Ongoing Communication and Quality Control Feedback Reports

Fannie Mae's goal is to continue engaging in frequent, meaningful exchanges of information with its lenders on quality trend analyses and significant underwriting deficiencies identified through the quality control loan file review process. Fannie Mae believes such communications strengthen the alignment between Fannie Mae and its lenders on what constitutes a significant deficiency and provides both parties with a clear understanding of underwriting philosophy and how it applies to loan-level findings. Fannie Mae requires that lenders implement and enforce strong underwriting processes and, if appropriate, will work with lenders to develop action plans to improve origination quality.

With the roll out of the representations and warranties framework in 2012, Fannie Mae committed to providing lenders with ongoing feedback about their loan quality performance. To increase transparency, starting with 2013 acquisitions, Fannie Mae's quality control process started identifying repurchases by eligibility violation(s) (for example, "maximum debt-to-income ratio," "insufficient assets," and "undisclosed mortgage") as well as identifying frequent or common defects. To support the expanded scope of the quality control process, Fannie Mae enhanced lender reporting to introduce detailed feedback resulting from the quality control loan file reviews and a corresponding loan list that identifies:

- defect(s) that caused a loan to be ineligible (that is, unacceptable and subject to a repurchase request);
- defect(s), that when considered with other loan attributes, did not impact the overall eligibility (or acceptability) of the loan and did not trigger a repurchase request (making it eligible for relief under Version 2, assuming no other significant eligibility defect was identified in the quality control loan file review); and
- no identified defects.

The expanded scope of Fannie Mae's quality control process provides lenders with a more holistic view of loan quality by identifying ineligible loans as well as loans that had findings that do not affect the overall eligibility. Fannie Mae believes that providing this additional feedback supplies lenders with an important source of information that can lead to improving loan quality in the future.

Notification of Relief under Version 1 and Version 2 of the Framework

In the coming months, Fannie Mae will begin providing lenders with reports listing those mortgage loans that met the eligibility requirements for relief. These reports are in addition to the quality control feedback reports described above. Fannie Mae will engage with the industry to obtain feedback on the effectiveness of these reports.

New Alternative to Repurchase: MI Stand-In

Fannie Mae will no longer automatically issue a repurchase request to lenders when notified that primary mortgage insurance has been rescinded on a loan. For mortgage loans acquired on and after July 1, 2014, Fannie Mae has developed a new alternative to repurchase that may be available in cases where mortgage insurance for a particular mortgage loan has been rescinded, provided the lender and the mortgage loan meet certain eligibility criteria. In these cases, the lender will pay Fannie Mae for the full mortgage insurance claim amount that would have been payable under the original mortgage insurance policy if the mortgage loan liquidates ("MI stand-in").

If mortgage insurance for a particular mortgage loan has been rescinded, the servicer must notify Fannie Mae as required by the *Servicing Guide*, Part I, Section 201.03.02, Notifying Fannie Mae of Rescission, Cancellation, or Claim Denial. Lenders will be requested to deliver the full loan file, including all investigation reports and communications related to the rescission and rebuttal with the insurer. Fannie Mae will conduct a quality control loan file review of the loan. If, after the file review, Fannie Mae determines that the mortgage loan is otherwise acceptable and the lender is in good standing, Fannie Mae will issue a letter that includes information on how to initiate a discussion on repurchase alternatives. If the lender also meets Fannie Mae's financial qualifications, Fannie Mae will offer an uncollateralized MI stand-in repurchase alternative. If the lender does not meet Fannie Mae's financial qualifications, Fannie Mae will offer a collateralized MI stand-in repurchase alternative. Fannie Mae will update its *Servicing Guide* in the near future with additional details regarding the requirements for MI stand-in.

> NOTE: *In accordance with A2-3.2-01, the terms "lender" and "servicer" as used above, is the "responsible party" — the seller, servicer, or other entity that is responsible for the selling representations and warranties and/or for the servicing responsibilities or liabilities on a mortgage loan.*

Future Guide Updates

These policy changes will be included in a future update of the *Selling Guide*. There will also be a separate *Servicing Guide* Announcement.

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

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