



Selling Guide Announcement SEL-2017-07

August 29, 2017

Selling Guide Updates

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

- Use of MERS in Maine
- Part A Simplification: General Contract Terms, Indemnification Provisions, and Fannie Mae Trade Name and Trademarks
- Reference to NCAP
- Miscellaneous *Selling Guide* Update

Each of the updates is briefly described below. The *Selling Guide* provides full details of the policy changes. The affected topics for each policy change are listed on the Attachment. The updated topics are dated August 29, 2017.

Use of MERS in Maine

On March 7, 2017, we announced in a Selling Notice that steps were being taken to suspend use of the “MERS as Original Mortgagee” authorized change to the Maine security instrument ([Form 3020](#)). These steps are in response to judicial developments in Maine challenging MERS’ role as nominee for lenders (and their assignees) and the absence of a legislative remedy that addresses prospective foreclosures and other mortgage-related enforcement actions.

Effective Date

For mortgage loans that are secured by a property located in the state of Maine, with a note date on or after January 1, 2018, and that are to be registered with MERS (formally known as the Mortgage Electronic Registration Systems, Inc.), lenders must use the new Fannie Mae/Freddie Mac MERS Mortgage Assignment ([Form 3749](#)) to assign such loans to MERS.

Mortgage loans with a note date on or after January 1, 2018, that are secured by a property located in Maine are ineligible for delivery to Fannie Mae if the Maine security instrument (Form 3020) has been modified to name MERS as the original mortgagee of record solely as nominee for the lender, or if the loan has been assigned to MERS using an assignment form other than Form 3749.

Lenders may begin using the new MERS Mortgage Assignment form immediately. As a reminder, the new assignment form must be used with the standard Maine mortgage form, and may not be used with a Maine mortgage form that has been modified to include the MERS-as-original-mortgagee authorized change.

Part A Simplification: General Contract Terms, Indemnification Provisions, and Fannie Mae Trade Name and Trademarks

In our ongoing efforts to simplify and consolidate duplicate content in the *Selling* and *Servicing Guide*, this month we have updated several topics in Part A, Doing Business with Fannie Mae, pertaining to general contract terms, indemnification provisions, and Fannie Mae trade names and trademarks. The duplicate content was removed from the *Servicing Guide* in the update published on August 16, 2017. The updates to the *Selling Guide* are briefly described below.



General Contract Terms

The following updates were made to [A2-1-01](#), Contractual Obligations for Sellers/Serviceirs:

- The content was rewritten, with the majority of it reformatted into an easy-to-read table.
- A number of general contract terms from other topics in the *Selling and Servicing Guide* were consolidated into this topic.
- We acknowledged and clarified the use of the terms “lender,” “servicer,” “seller,” and “seller/servicer” throughout the Guides.
- The delivery methods for notices of termination in the *Mortgage Selling and Servicing Contract* (MSSC) were updated and incorporated into this topic.
- The assignment provisions from the MSSC were incorporated into this topic.
- The provision regarding governing law was streamlined but the choice of New York law remains unchanged.

See the Addendum to this Announcement for additional topics that were impacted by the changes noted above.

Indemnification Provisions

We are adopting a consistent and comprehensive approach to indemnification after reviewing the indemnification requirements in the *Selling Guide*, *Servicing Guide*, Software Subscription Agreement Master Terms and Conditions (SSA), as well as the provisions of the standalone Indemnification Agreement we require sellers/servicers to sign in lieu of immediate loan repurchase or for certain types of products. With this update:

- We incorporated and standardized the process provisions from the standalone Indemnification Agreement and SSA into the *Selling Guide*. This update provides increased transparency around our requirements and a shorter standalone Agreement and SSA. These process requirements will apply to all indemnification claims.
- We have incorporated the indemnification requirements from the SSA in order to provide consistency around our indemnification requirements.

In addition, references to “Fannie Mae’s sole discretion” with regard to determination of “Fannie Mae Losses” were eliminated in [A2-1-03](#), Indemnification for Losses.

Fannie Mae Trade Name and Trademarks

The content in [A2-6-01](#), Fannie Mae Trade Name and Trademarks, has been simplified. The terms related to the use of Fannie Mae marks have been reformatted into an easy-to-read table. No other policy changes were made.

Effective Date

These updates are effective immediately.

Reference to NCAP

In Lender Letter [LL-2017-02](#), *Changes to the Reporting of Civil Judgments and Tax Liens on Credit Reports*, dated June 13, 2017, we addressed the implementation of the consumer credit reporting agencies (CRAs) National Consumer Assistance Plan (NCAP). With this Guide update, we have updated our credit report requirements in connection with how public record information is reported in light of NCAP. We have also clarified that credit reports provided by CRAs that follow the industry reporting updates related to public record data are compliant with our requirements.

Effective Date

This change is effective immediately.



Miscellaneous *Selling Guide* Update

[B3-4.1-01](#), Minimum Reserve Requirements: The Guide was updated to remove a note about Desktop Underwriter® (DU®) including the unpaid principal balance (UPB) of open mortgages and HELOCs from the credit report, but not disclosed in the online loan application in the reserves calculation for multiple financed properties. This update will align *Selling Guide* policy with an update made in DU Version 10.1.

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

Carlos T. Perez
Senior Vice President and
Chief Credit Officer for Single-Family



Attachment

Section of the Announcement	Updated <i>Selling Guide</i> Topics
Use of MERS in Maine	<ul style="list-style-type: none">▪ B8-7-01, Mortgage Electronic Registration Systems, Inc. (MERS)
Part A Simplification: General Contract Terms, Indemnification Provisions, and Fannie Mae Trade Name and Trademarks	<ul style="list-style-type: none">▪ A2-1-01, Contractual Obligations for Lenders▪ A2-3.2-01, Loan Repurchases and Make Whole Payments Requested by Fannie Mae▪ C1-1-01, Execution Options▪ E-2-03, Master Agreement Terms and Conditions▪ A2-1-03, Indemnification for Losses▪ A2-6-01, Fannie Mae Trade Name and Trademarks
Reference to NCAP	<ul style="list-style-type: none">▪ B3-5.2-01, Requirements for Credit Reports