

Lender Letter LL-2013-06

July 2, 2013

To: All Fannie Mae Single-Family Sellers

Additional Information about Ability to Repay and Qualified Mortgage Requirements

On May 6, 2013, Fannie Mae issued Lender Letter LL-2013-05, *Qualified Mortgages*, to address the Consumer Financial Protection Bureau's (CFPB) final rule issued on January 10, 2013, that implemented the "ability to repay" provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The rule generally requires lenders to make a reasonable, good faith determination of a consumer's ability to repay before originating a mortgage loan and establishes certain protections from liability for "qualified mortgages." In that Lender Letter, Fannie Mae announced the criteria loans must meet to be eligible for purchase as a result of the May 2, 2013 Federal Housing Finance Agency (FHFA) directive to Fannie Mae and Freddie Mac.

The purpose of this Lender Letter is to provide lenders with additional information regarding the status of upcoming policy changes and future communication that Fannie Mae plans to release by late summer.

Mortgage Eligibility Criteria

As stated in Lender Letter LL-2013-05, loans with application dates on or after January 10, 2014 must meet the following requirements to be eligible for sale to Fannie Mae:

- Amortization – loans must be fully amortizing (e.g., no negative amortization or interest-only loans);
- Term – loans must not have terms greater than 30 years (e.g., no 40-year terms); and
- Points and fees – loans must not have total points and fees in excess of 3% of the total loan amount (or such other applicable limits for low balance loans).

Additionally, Fannie Mae will continue to purchase loans that are exempt from the ability to repay rule as long as such loans meet the eligibility and underwriting requirements described in the *Selling Guide*.

Fannie Mae will not be evaluating a loan's compliance with CFPB's final rule on ability to repay or its qualified mortgage status. Rather, these three eligibility requirements, along with the other standards already in the *Selling Guide* (with slight revisions such as those indicated below), will determine loan eligibility for acquisition. Such eligibility may also be determined by Desktop Underwriter® or applicable contractual variances, subject to a final rule on variances by CFPB.

Additional Guidance about Representations and Warranties

As stated in Lender Letter LL-2013-05, Fannie Mae will initially rely solely upon lender selling representations and warranties that loans subject to the ability to repay rule meet the three eligibility requirements listed above.

Fannie Mae will continue to apply the representation and warranty principles established in *Selling Guide* Announcement SEL-2012-08, *New Selling Representations and Warranties Framework*, provided that loans meet the payment history and other eligibility requirements of the framework, and meet the three new eligibility requirements if subject to the ability to repay rule.

August 2013 Policy Communication

Fannie Mae will issue a *Selling Guide* update and Announcement that will include (but is not limited to) the following:

- updates to the lender representations and warranties to address new eligibility requirements for loans subject to the ability to repay rule;
- policy changes related to loan eligibility, for example:
 - removal of policies related to interest-only and 40-year terms,
 - revision of current policies regarding points and fees,
 - changes to policies pertaining to loans with prepayment penalties, and
 - changes to policies pertaining to loans that are exempt from the ability to repay rule.

These changes will apply to mortgage loans with application dates on or after January 10, 2014.

NOTE: *Fannie Mae will not be imposing a delivery deadline for loans that have application dates prior to January 10, 2014.*

September 2013 Policy Communication

A second *Selling Guide* update and Announcement is planned for September 2013. The update will address how Fannie Mae will test lender compliance with the three new eligibility requirements, including any related documentation or other requirements. Fannie Mae will phase-in quality control testing in early 2014 as part of the post-purchase file review process.

New Uniform Loan Delivery (ULDD) Data Points

Work is currently underway to identify new delivery data points that will help lenders and Fannie Mae determine if mortgage loans meet the points and fees thresholds. Those new ULDD data points will help in identifying exempt mortgages, total loan amount, total points and fees, and annual percentage rate (APR). These updates will be included in the implementation of ULDD Phase 2. Fannie Mae will be communicating the new Phase 2 specifications and implementation timelines later this summer. As with all updates to ULDD, lenders will have sufficient lead time to update their systems in order to comply with the new data requirements. Refer to the [Uniform Loan Delivery Dataset page](#) on Fannie Mae's website for additional information.

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

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