

Announcement 09-13

May 11, 2009

Amends these Guides: Selling

Home Affordable Refinance – Updates and Clarifications to Announcement 09-04

Introduction

On March 4, 2009, Fannie Mae announced two new refinance options to support the Making Home Affordable Program. The options described in Announcement 09-04, *Home Affordable Refinance – New Refinance Options for Existing Fannie Mae Loans*, were designed primarily to assist borrowers who have been able to demonstrate an acceptable payment history on their mortgage loan, but were unable to refinance due to declining property values.

Fannie Mae has an ongoing commitment to the success of this refinance initiative, and is continually monitoring potential obstacles to borrowers being able to refinance in order to make sure the program reaches as many eligible borrowers as possible. This Announcement:

- Outlines the applicability of standard representations and warranties for underwriting and documentation, including the treatment of certain discrepancies discovered through Fannie Mae's quality control process.
- Modifies and clarifies several eligibility guidelines contained in Announcement 09-04.

Applicability of Standard Representation and Warranties

Fannie Mae is providing guidance on the application of standard lender representations and warranties to loans eligible for the Home Affordable Refinance initiative. Fannie Mae is taking this unusual step to assist lenders in expediting the processing of these loans given the limited time in which the Home Affordable Refinance is available and its importance to the overall housing recovery plan. The guidance below is designed to address lender questions regarding potential repurchase liability associated with this initiative, and to provide transparency related to Fannie Mae's quality control process.

Refi Plus™ Loans

Refi Plus is a manually underwritten refinance of an existing Fannie Mae mortgage loan by the current servicer of the loan and is available to all Fannie Mae-approved lenders.

Verification of Employment, Assets, and Borrower Credit History

As a reminder of the requirements in Announcement 09-04, for Refi Plus loans the lender:

- must verify the borrower's employment or self-employment with a verbal verification of employment and must verify the borrower's source of non-employment income, if any;
- does not have to document or verify assets or reserves;
- must ensure that the borrower's payment history on the original loan being refinanced meets Refi Plus requirements; and
- must ensure that Fannie Mae's standard requirements and timeframes for prior bankruptcy and foreclosure actions are met.

Fannie Mae's Quality Control Process

For Refi Plus loans, Fannie Mae's quality control process will not:

- hold the lender responsible for information that may be obtained as a result of Fannie Mae's reverification of income or assets stated by the borrower,
- impose any maximum debt-to-income ratio or other underwriting criteria,
- require the lender to represent and warrant that the borrower has an acceptable credit history (other than the credit history and mortgage payment requirements that are specific to Refi Plus per Announcement 09-04), or
- hold the lender accountable for undisclosed liabilities.

Continuation of Representations and Warranties on Existing Mortgage Loan

For Refi Plus loans, if the borrower has made at least 12 monthly payments on the existing mortgage, and the borrower meets the payment history and borrower benefit requirements for Refi Plus, the lender is not required to review or make representations and warranties on the original mortgage loan file related to borrower eligibility or underwriting. The original loan file must still be maintained as part of the new Refi Plus origination file.

However, if the borrower has made less than 12 monthly payments, the lender retains responsibility for the standard eligibility and underwriting representations and warranties for the original mortgage loan since the lender, as the current servicer, has access to the original underwriting file and documentation.

Property Valuation Requirements

For Refi Plus loans, the lender is responsible for the standard representations and warranties related to the value, marketability, and condition of the property as reflected in the property valuation used to support the refinance transaction. This valuation could be based on the original appraisal obtained for the existing mortgage loan, or a new property valuation as required by Announcement 09-04. If a new property valuation is obtained, the lender is relieved of the standard representations and warranties related to any prior appraisal.

DU Refi Plus™ Loans

For DU Refi Plus loans, the lender is not responsible for the representations and warranties associated with the original loan. In addition, the lender is relieved of the standard underwriting representations and warranties with respect to the new mortgage loan *if the lender meets all of the following requirements*:

- All data in the loan casefile is complete, accurate, and not fraudulent.
- The lender follows the instructions in the Desktop Underwriter® (DU®) Underwriting Findings Report regarding income, employment, asset, and fieldwork documentation.
- The lender complies with all other requirements as documented in the *Selling Guide*, A2-2.1-04, Limited Waiver of Contractual Warranties for Mortgages Submitted to DU.

Additional Representations and Warranties for Refi Plus and DU Refi Plus

Lenders remain responsible for all other standard representations and warranties, including those related to fraud, and those related to borrower benefit in connection with the Refi Plus or DU Refi Plus transaction, and for Refi Plus loans, those related to acceptable mortgage payment history on the existing loan. Additional guidance about lender representation and warranties is available in the [Home Affordable Refinance FAQs](#).

Updates and Clarifications to Eligibility Requirements for Refi Plus and DU Refi Plus

Below are several updates and clarifications to the existing requirements for both Refi Plus and DU Refi Plus, unless otherwise specified. All requirements contained in Announcement 09-04 remain in effect except as noted below.

Eligible and Ineligible New Mortgage Loans

Fannie Mae is updating the requirements to permit the new mortgage loan to be a Texas Section 50(a)(6) mortgage. Since under Texas law the new limited cash-out Refi Plus or DU Refi Plus mortgage loan must comply with the Texas Section 50(a)(6) requirements, the lender must be approved to deliver Texas Section 50(a)(6) mortgages. The most restrictive guidelines of Fannie Mae's Texas Section 50(a)(6) requirements, including the variance in the lender's existing Master Agreements, or the Refi Plus and DU Refi Plus requirements apply to the refinance mortgage. The only exceptions to this requirement are that a minimum credit score does not apply and the Refi Plus and DU Refi Plus loan-level price adjustments are applicable. The following Texas Section 50(a)(6) requirements are applicable:

- maximum 80 percent LTV and CLTV;
- minimum 12 months seasoning;
- one-unit principal residences only;
- new full appraisal is required (Fannie Mae Form 1004, Form 1004C, Form 1073, or Form 2090, as applicable);

- title insurance requirements for Texas Section 50(a)(6) loans must be met; and
- all applicable special feature codes must be delivered, including but not limited to 304, 147 or 288 (identifying the loan as a Texas Section 50(a)(6), DU Refi Plus or Refi Plus, respectively).

All other Refi Plus or DU Refi Plus requirements apply. This flexibility is available effective immediately. Because DU is not able to determine if Texas Section 50(a)(6) applies to specific limited cash-out loan casefiles, the lender must make the determination and apply the corresponding eligibility requirements.

Property Listing Requirements

The property listing requirements that apply to refinance transactions, as outlined in Announcement 08-22, *Miscellaneous Eligibility, Policy, and Pricing Updates*, require confirmation that the subject property is not listed for sale at the time of application for a limited cash-out refinance transaction. However, Fannie Mae will not require the property listing requirements to be applied to Refi Plus and DU Refi Plus transactions.

This flexibility is available to both Refi Plus and DU Refi Plus mortgage loans effective immediately. DU was updated the weekend of May 2, 2009 to suppress the message that is issued on limited cash-out refinance transactions reminding lenders of the listing history requirement on DU Refi Plus loan casefiles.

Seasoning Requirements on the Existing Mortgage – Short-Term Refinance Policy

As stated in Announcement 09-04, there are no seasoning requirements on either Refi Plus or DU Refi Plus. For that reason, Fannie Mae is further stating that the short-term refinance policy as described in Announcement 08-22 is not applicable to these refinance options. Any refinance of a short-term refinance mortgage loan (i.e., consolidation of a first mortgage with a non-purchase money subordinate mortgage) within six months *will not* be considered a cash-out transaction, and is eligible for Refi Plus or DU Refi Plus.

DU was updated the weekend of May 2, 2009 to suppress the message that was issued on limited cash-out refinance transactions reminding lenders of the short-term refinance policy.

Credit History – Bankruptcy and Foreclosure Guidelines

A borrower with a history of bankruptcy or foreclosure will be treated slightly differently based on the refinance option chosen.

- **Refi Plus:** If the bankruptcy or foreclosure occurred prior to the application for the existing mortgage, i.e., if the loan was eligible under previous Fannie Mae guidelines, the new mortgage will also be eligible.
- **DU Refi Plus:** No changes to the current DU guidelines. Lenders must comply with the bankruptcy and foreclosure policies for loan casefiles underwritten through DU.

This flexibility is effective immediately for Refi Plus mortgage loans. Under either option, if there are extenuating circumstances outside of standard requirements, loans may be considered on a case-by-case basis.

Property Valuation - Appraisal Requirements

For Refi Plus transactions, Fannie Mae is clarifying which appraisal forms may be used when the property securing the new loan is secured by a manufactured home, two- to four-unit property, or unit in condominium or cooperative project.

For all manufactured homes and two- to four-unit properties the following appraisal report forms are required:

- *Manufactured Home Appraisal Report* (Form 1004C)
- *Small Residential Income Property Appraisal Report* (Form 1025)

For lender-estimated LTV ratios of 95 percent or less, an exterior-only inspection appraisal report (at a minimum) must be obtained on the applicable form based on the property type:

- *Exterior-Only Inspection Residential Appraisal Report* (Form 2055)
- *Exterior-Only Inspection Individual Condominium Unit Appraisal Report* (Form 1075)
- *Exterior-Only Inspection Individual Cooperative Interest Appraisal Report* (Form 2095)

For lender-estimated LTV ratios over 95 percent, an interior and exterior appraisal report on the applicable form based on the property type must be obtained:

- *Uniform Residential Appraisal Report* (Form 1004)
- *Individual Condominium Unit Appraisal Report* (Form 1073)
- *Individual Cooperative Interest Appraisal Report* (Form 2090)

This clarification is effective immediately for Refi Plus mortgage loans.

As a reminder, lenders must continue to follow the fieldwork recommendation provided by DU for DU Refi Plus transactions.

Loan Purpose – Cash Back to Borrower at Closing

The standard limited cash-out refinance requirements, as contained in the *Selling Guide*, B2-1.02-02, Limited Cash-Out Refinance Transactions, are modified as follows for all Refi Plus and DU Refi Plus transactions:

Cash Back to Borrower: The borrower may receive cash back at closing of no more than \$250. Any excess cash representing the difference between the estimated and the actual payoff of the original loan plus closing costs and prepaid fees that is more than \$250 must be applied as a principal curtailment to the new mortgage (or a reduction in the actual loan amount).

Lenders must apply this requirement on applications dated on or after July 1, 2009. All whole loans and mortgage loans delivered into MBS on or after December 1, 2009 must comply with the new policy.

DU will be updated in a future release to apply this cash back requirement to DU Refi Plus loan casefiles.

Temporary Interest Rate Buydowns

Refi Plus and DU Refi Plus mortgages may not be subject to a temporary interest rate buydown. Refi Plus or DU Refi Plus mortgage loans that include a temporary interest rate buydown must have applications dated before July 1, 2009 and be delivered prior to December 1, 2009.

DU will be updated in a future release to apply this eligibility guideline to DU Refi Plus loan casefiles.

Resubordination

As required in Announcement 09-04, lenders must resubordinate any existing subordinate liens in order to preserve the first lien position of the new loan. If Fannie Mae owns the loan secured by the subordinate lien, the servicer of that loan must cooperate fully with the originator of the refinance to effect a resubordination as quickly as possible. Moreover, Fannie Mae strongly encourages lenders to expedite the subordination of all subordinate liens they own or service in order to implement the Home Affordable Refinance Program with respect to loans not owned by Fannie Mae.

Fannie Mae and Freddie Mac, working with representatives of the American Land Title Association, have developed standard form subordination agreements that lenders may use with refinances and modifications to resubordinate subordinate liens. Lenders that elect to use these forms will be responsible for ensuring their enforceability and compliance with applicable state laws and local recording requirements. The new forms will be posted on eFannieMae.com on the [Special Purpose Legal Documents](#) page by June 1, 2009.

Frequently Asked Questions (FAQs)

The [Home Affordable Refinance FAQs](#) have been updated to:

- add information pertaining to the representation and warranties,
- clarify that DU performs its standard credit risk assessment for loan casefiles that are underwritten as DU Refi Plus, and
- provide additional new and updated FAQs on a number of topics related to the Refi Plus options (DU and manual underwriting).

Effective Dates

As the majority of the above changes represent additional expansion of the flexibilities under these options, lenders may implement these flexibilities immediately.

Lenders must apply the updated requirements for “Cash Back to Borrower at Closing” and “Temporary Interest Rate Buydowns” to Refi Plus and DU Refi Plus applications dated on or after July 1, 2009. All whole loans and mortgage loans delivered into MBS on or after December 1, 2009 must comply with the new policies.

Lenders who have questions about Announcement 09-13 should contact their Customer Account Team for additional information.

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