

## **Selling Guide Announcement SEL-2012-13**

November 13, 2012

### ***Selling Guide Updates***

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

- Ownership of Mortgage Loans Prior to Purchase or Securitization
- Redelivery of Mortgage Loans
- Premium Recapture
- Obtaining a Pool Purchase Contract
- Refinances that Include the Financing of Real Estate Taxes
- Depository Accounts
- Reserves
- Updates to DU Refi Plus™ and Refi Plus™ Mortgages
- Delayed Financing Policy
- Outstanding Collections
- Signature Requirements for HUD-1 Settlement Statements in Escrow States
- 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 November 13, 2012.

#### ***Effective Date***

Unless otherwise stated below, all updates and clarifications are effective immediately.

*NOTE: The Selling Guide has not yet been updated to reflect the contents of the following previously issued announcements:*

- *SEL-2012-12, Disaster Policy and Updates to DU Refi Plus™ and Refi Plus™ Property Policies, and*
- *SEL-2012-08, New Lender Selling Representations and Warranties Framework.*

*These announcements will be incorporated in the next Selling Guide update. Until such time, lenders must continue to refer to these announcements.*

### **Ownership of Mortgage Loans Prior to Purchase or Securitization**

A number of industry participants, including mortgage sellers and their warehouse lenders, have raised questions concerning how their security interests and rights in mortgage loans may be impacted during Fannie Mae's certification processes for whole loan and MBS deliveries and, in particular, how their security interests and rights in the mortgage notes delivered to a document custodian for certification are preserved prior to the

remittance of purchase proceeds by Fannie Mae. To respond to these concerns, Fannie Mae has added language to the *Selling Guide* to clarify the rights of mortgage sellers (or, as applicable, their warehouse lenders) during the loan pooling, certification, and acquisition processes.

### **Updated Selling Guide Topics**

- [A3-3-04](#), Document Custodians (Role and Responsibilities of the Document Custodian)
- [C1-2-03](#), Ownership of Mortgage Loans Prior to Purchase or Securitization and Third-Party Security Interests
- [C2-2-03](#), General Information on Whole Loan Purchasing Policies (Warehouse Lender's Release of Interest in the Property)
- [C3-7-04](#), Delivering Data and Documents

## **Redelivery of Mortgage Loans**

The *Selling Guide* currently states that if the conditions that made a mortgage loan ineligible for purchase can be cured and the loan now meets Fannie Mae standards, it may be redelivered to Fannie Mae. Fannie Mae is further clarifying that acceptance of the redelivered mortgage loan is at the sole and absolute discretion of Fannie Mae and the transaction must be on a negotiated basis.

### **Updated Selling Guide Topic**

- [A2-3.2-02](#), Repurchases Resulting From Warranty Violations (Redelivery of Loans)

## **Premium Recapture**

In February of this year, the *Selling Guide* was updated to reserve Fannie Mae's right to request reimbursement for premiums and buyup proceeds paid on any mortgage loan that paid off within 120 days of acquisition or securitization. This policy is being updated to reflect that Fannie Mae in its sole discretion may require reimbursement by the lender for any premiums or buyup proceeds paid in connection with the purchase of the mortgage loan without regard to the 120-day limitation, if that loan is subsequently repurchased by the lender.

### **Updated Selling Guide Topics**

- [B2-1.2-05](#), Prohibited Refinancing Practices (Overview)
- [C1-1-01](#), Execution Options (Premium Pricing Recapture)
- [C3-3-02](#), Accessing Buyup and Buydown Ratios and Calculating Payments or Charges (Buyup Payment Recapture)

## **Obtaining a Pool Purchase Contract**

The *Selling Guide* has been updated to clarify that a lender seeking to obtain a pool purchase contract must first be evaluated by Fannie Mae. In other words, a Fannie Mae-approved seller is not automatically entitled to take out MBS contracts. Several of the factors considered by Fannie Mae are also described in this topic.

### **Updated Selling Guide Topic**

- [C3-2-05](#), Obtaining a Pool Purchase Contract (MBS Pool Purchase contracts Overview)

## Refinances that Include the Financing of Real Estate Taxes

The *Selling Guide* has been revised to include requirements concerning the refinance options (limited cash-out or cash-out) that are available when a borrower includes real estate taxes in the new loan amount that are coming due, pending payment, or past-due. In addition, escrow requirements have been revised to require that an escrow account be established for refinance transactions when delinquent taxes (past due by more than 60 days) are being included in the new loan amount, subject to applicable law or regulation.

### Updated Selling Guide Topics

- [B2-1.2-02](#), Limited Cash-Out Refinance Transactions (Acceptable Uses)
- [B2-1.2-03](#), Cash-Out Refinance Transactions (Acceptable Uses)
- [B2-1.4-04](#), Escrow Accounts

## Depository Accounts

### Verification of Deposits and Assets

In lieu of requiring the borrower to provide a bank statement, if the lender is also the depository for a borrower's account, the lender may produce a printout or other alternative verification of the asset produced directly from the lender's system.

### Depository Accounts

The checking and savings account topic has been renamed "Depository Accounts" to more accurately represent the topic content. The topic was updated to include references to money market and certificate of deposit accounts.

### Indications of Borrowed Funds

The *Selling Guide* has been updated to provide additional clarity with regard to the lender's responsibilities for investigating possible indications of borrowed funds, such as large deposits and recently opened accounts. The requirements include the following:

- Lenders must obtain the borrower's written explanation and documentation of the source of large deposits that are reflected on bank statements. Large deposits are defined as a single deposit that exceeds 25% of the total monthly qualifying income for the loan. If the source of a large deposit is readily identifiable on the account statement, such as direct deposits where the source of the deposit is printed on the statement, the lender does not need to obtain further explanation or documentation. However, if the source of the deposit is printed on the statement, but the lender still has questions as to whether the funds may have been borrowed, the lender should obtain additional documentation.
- Lenders must investigate accounts opened within 90 days of the application date and account balances that are considerably greater than the average balance reflected on the *Verification of Deposit* (Form 1006 or 1006S).

### Updated Selling Guide Topics

- [B3-4.2-01](#), Verification of Deposits and Assets
- [B3-4.2-02](#), Depository Accounts

## Reserves

### ***Retirement Assets Used for Reserves***

The *Selling Guide* policies related to the value of certain retirement assets have been revised. Rather than requiring a discount on certain types of accounts being used as reserves, the discount will depend upon the volatility of the account (such as, stocks, bonds, or mutual funds) and whether or not an early withdrawal penalty needs to be applied. In addition, the information regarding when retirement accounts may be considered as effective reserves has been clarified.

In order to align with the changes made to the value of retirement assets, lenders may manually apply these changes to Desktop Underwriter® (DU®) loan casefiles until the related DU messages are updated in a future DU release.

### ***Updated Selling Guide Topic***

- [B3-4.3-03](#), Retirement Accounts

### **Clarification of Minimum Reserve Requirements**

In Announcement SEL-2012-07, *Selling Guide and Other Updates*, Fannie Mae updated the requirements pertaining to the manual underwriting of borrowers without credit scores (or if one borrower has credit scores and other borrowers do not have credit scores). This update of the *Selling Guide* further clarifies that there is no minimum reserve requirement for these transactions, and that the requirements apply without regard to the product, such as MyCommunityMortgage® or HomeStyle® Renovation. (This latter requirement also applies to DU loan casefiles.)

In addition, the minimum credit score requirements have been clarified for Community Solutions™ and Community HomeChoice™ mortgage loans based upon the qualifying ratio and reserve requirements, and references to B3-5.1-01, General Requirements for Credit Scores, have been added.

### ***Updated Selling Guide Topics***

- [B3-5.1-01](#), General Requirements for Credit Scores (Exceptions to the Minimum Credit Score Requirement, Manual Underwriting: Borrowers Without Credit Scores, DU Loan Casefiles: Co-borrowers Without Credit Scores)
- [B5-6-03](#), MyCommunityMortgage Underwriting Methods and Requirements (MCM Borrowers with Nontraditional Credit: Manual Underwriting Only)
- [B5-6-04](#), MyCommunityMortgage: Additional Eligibility and Underwriting Requirements for Community Solutions and Community HomeChoice (Community Solutions: Qualifying Ratios, Credit Scores, and Reserve Requirements for Manually Underwritten Loans; Community HomeChoice: Qualifying Ratios, Credit Scores, and Reserve Requirements for Manually Underwritten Loans)

## Updates to DU Refi Plus and Refi Plus Mortgages

### ***Incorporation of Announcement SEL-2012-11, Updates to Eligible Existing Loan Requirements for DU Refi Plus™ Mortgage Loans***

In Announcement SEL-2012-11 Fannie Mae revised the eligibility requirements for mortgages with investor-paid primary or pool mortgage insurance. If the lender converts the existing investor-paid coverage to borrower-paid or lender-paid coverage, the loans are eligible for refinance under DU Refi Plus. These changes are now incorporated into the *Selling Guide*.

## ***Refi Plus Borrower Eligibility***

In addition, the borrower eligibility requirements for Refi Plus have been updated to more clearly reflect that at least one of the original borrower(s) must be retained on the new loan. (The requirements as currently written in the Guide imply this requirement, but the new language makes it clearer.)

## ***Updated Selling Guide Topic***

- [B5-5.2-01](#), DU Refi Plus and Refi Plus Eligibility (Borrower Eligibility, Eligible Existing Mortgage Loan Types)

## ***Effective Date***

As indicated in Announcement SEL-2012-11, the DU Refi Plus database was updated on October 13, 2012, to accommodate this change to investor-paid coverage.

## ***New Effective Date for Refi Plus Property Valuation Requirements in Announcement SEL-2012-12***

In Announcement SEL-2012-12, Fannie Mae eliminated the option that allowed the lender to use the original appraisal for a Refi Plus transaction. Because lenders may have some loans in their pipelines for which they were using this option, Fannie Mae is extending the effective date for this policy change to applications dated on or after January 1, 2013.

## ***Delayed Financing Policy***

The changes made in the following topics in the *Selling Guide* are in response to lender questions about certain aspects of Fannie Mae's delayed financing policy. These updates are intended to clarify, not change, the current policy.

- [B2-1.2-03](#), Cash-Out Refinance Transactions
  - Added a reminder that borrowers with five to ten financed properties are ineligible for cash-out refinance transactions on second homes or investment properties unless all of the requirements in the Delayed Financing Exception section are met.
  - Defined the measurement of the six-month eligibility timeframe for delayed financing from the date on which the subject property was purchased to the application date of the new refinance.
  - Clarified that if the source of funds to purchase the subject property was an unsecured loan or a loan secured by an asset other than the subject property (such as a HELOC on another property), all cash-out proceeds from the refinance must be used to pay down the original loan and must be reflected on the HUD-1 Settlement Statement for the refinance transaction. Any payment on the balance remaining from the original loan must be included in the debt-to-income ratio calculation for the refinance transaction.
- [B2-2-03](#), Multiple Financed Properties for the Same Borrower. This topic now includes a reminder that for cash-out refinances of second homes or investment properties for borrowers with five to ten financed properties, the purchase of the property had to occur within six months of the application date and all other delayed financing exception requirements must be met.

## ***Outstanding Collections***

References to the impact of outstanding collections on Fannie Mae's first lien position have been removed from the topics below. No outstanding collection or charge-off would endanger Fannie Mae's first lien position, making proof of this scenario by the lender unnecessary.

The collection message issued by DU on one-unit principal residence transactions will be updated to reflect this change in a future DU release. Until that time, lenders may disregard the requirement specified in the message that the lender confirm that the collection accounts pose no threat to Fannie Mae's first mortgage lien.

### **Updated Selling Guide Topics**

- [B3-5.3-09](#), DU Credit Report Analysis (Past-Due, Collections, and Charge-Off Accounts)
- [B3-6-07](#), Debts Paid Off At/Prior to Closing (Collections, Charge-Offs, Judgments, Garnishments, and Liens)

## **Signature Requirements for HUD-1 Settlement Statements in Escrow States**

Currently, the *Selling Guide* requires that the mortgage loan file contain a copy of the final HUD-1 Settlement Statement (or other closing statement) signed by the borrower and seller, if applicable. This requirement has been updated for loans in escrow states to allow the final HUD-1 Settlement Statement to be signed only by the escrow agent, with signatures of the borrower and seller no longer required.

### **Updated Selling Guide Topics**

- [A2-5.1-02](#), Individual Mortgage Loan Files (Contents of a Mortgage Loan File)
- [E-2-07](#), Closing Mortgage Loan File Documentation (Post-Closing Review File Submission Documentation)

## **Miscellaneous Selling Guide Updates**

The following miscellaneous changes have been made to the Guide:

- [B2-1.2-06](#), Payoff of Installment Land Contract Requirements. The language pertaining to the calculation for the LTV ratio was updated to reflect that the numerator is the new loan amount (not the original loan amount).
- [B3-3.1-09](#), Other Sources of Income (Capital Gains Income), and [B3-3.2.1-05](#), Income or Loss Reported on IRS Form 1040, Schedule D. The *Selling Guide* has been updated to clarify that capital losses that are identified on IRS Form 1040, Schedule D, do not have to be considered when calculating income or liabilities, even if the losses are recurring.
- [B3-4.3-05](#), Gifts of Equity. This topic currently states: "The sales price for the property is at market value." This statement has been removed from this topic because the nature of these transactions is such that they are non-arms-length transactions that are often sold at below market value.
- [B3-6-06](#), Qualifying Impact of Other Real Estate Owned. In the Conversion of Current Principal Residence to Investment Property section of this topic, the reference to the federal tax return requirement was corrected from two years of returns to one year. This aligns with the changes Fannie Mae announced in Announcement SEL-2012-04, *Selling Guide and Other Updates*.
- [C2-2-05](#), Whole Loan Purchasing Process. Fannie Mae's Mortgagee Number was updated to reflect 95001099. Only the first five digits of this number should be used when submitting a Mortgage Record Change (HUD Form 92080) via FHA Connection.

\*\*\*\*\*



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

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