

Selling Guide Announcement SEL-2013-01

January 17, 2013

Selling Guide Updates

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

- Selling Government Mortgage Loans to Fannie Mae
- Refunding Borrowers for Overpayment of Fees and Charges
- New Principal Curtailment Policy
- *Inter Vivos* Revocable Trusts

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 January 17, 2013.

Selling Government Mortgage Loans to Fannie Mae

To better manage and monitor the acquisition of government-insured and -guaranteed mortgage loans, Fannie Mae is making the eligibility for delivery of government mortgage loans available on a negotiated basis only. Lenders that want to continue to sell FHA-insured, HUD-guaranteed, VA-guaranteed, and RD-guaranteed mortgage loans to Fannie Mae should contact their customer account team. Lenders without a designated customer account team or that have questions concerning their account team should contact 1-888-FANNIE8 (326-6438) and select option 4 (Marketing).

The eligibility and delivery requirements for government loans will remain unchanged as described in the *Selling Guide*, Subpart B6, Government Programs Eligibility and Underwriting Requirements (unless otherwise modified by the lender's variance).

Updated Selling Guide Topics

- [A2-4-01](#), Master Agreement Overview
- [B5-1.1-01](#), High-Balance Mortgage Loan Eligibility and Underwriting (Government Mortgage Loans)
- [B6-1-01](#), General Government Mortgage Loan Requirements (Lender Eligibility)
- [E-3-07](#), Glossary of Fannie Mae Terms: G

Effective Date

This change is effective for all government loans, including whole loans sold to Fannie Mae on or after May 1, 2013, and government loans in MBS with issue dates on or after May 1, 2013.

Refunding Borrowers for Overpayment of Fees and Charges

Fannie Mae is clarifying *Selling Guide* policies related to refunds to borrowers for the overpayment of fees and charges, such as refunds made in accordance with certain federal laws or regulations.

Purchase Transactions

The general requirements for a purchase transaction state that proceeds from a purchase transaction may be used to give the borrower cash back in an amount representing reimbursement for the borrower's overpayment of fees. That statement has been clarified to allow the reimbursement to include refunds that may be required in accordance with certain federal laws or regulations.

Limited Cash-Out Refinance Transactions

In addition to the maximum cash back that is permitted on a limited cash-out refinance transaction (the lesser of 2% of the loan amount or \$2,000, or \$250 for DU Refi Plus and Refi Plus), the lender may also refund the borrower for the overpayment of fees and charges due to federal or state laws or regulations. Refunds such as these are not included in the cash back limitation.

Documentation

The HUD-1 Settlement Statement must clearly identify the refund with a notation for the reason, and the loan file must include documentation to support the amount and reason for the refund.

NOTE: These refunds may also be applied as a principal balance curtailment in accordance with B2-1.4-05, Principal Curtailments. (See additional information below.)

Updated Selling Guide Topics

- [B2-1.2-01](#), Purchase Transactions
- [B2-1.2-02](#), Limited Cash-Out Refinance Transactions

Effective Date

These clarifications are effective immediately.

New Principal Curtailment Policy

A principal curtailment is the application of funds that are used to reduce the unpaid principal balance of the mortgage loan. A new policy has been established regarding acceptable principal balance curtailments that may be made prior to delivery of a mortgage loan to Fannie Mae.

Fannie Mae permits curtailments for the following reasons:

- The lender may apply a curtailment to refund the overpayment of fees or charges paid by the borrower, in any amount, in accordance with applicable regulatory requirements.
- If the borrower receives more cash back than is permitted for limited cash-out refinances, the lender can apply a curtailment to reduce the amount of cash back to the borrower to bring the loan into compliance with the maximum cash-back requirement. The maximum amount of the curtailment cannot exceed the lesser of \$2,500 or 2% of the original loan amount for the subject loan.

For example, if the borrower received \$4,500 cash back at closing on a loan amount of \$400,000, the lender could apply a \$2,500 curtailment prior to delivery to Fannie Mae. This would result in "net cash back" to the borrower of \$2,000, thus meeting Fannie Mae's limited cash-out refinance requirement. For a Refi Plus transaction, if the borrower received \$2,750 cash back at closing on a loan amount of \$400,000, the lender could apply a \$2,500 curtailment prior to delivery to Fannie Mae. This would result in "net cash back" to the borrower of \$250, thus meeting the Refi Plus requirement.

Lenders must apply these curtailments prior to delivery of the loan to Fannie Mae. Such curtailments may not be held until after whole loan delivery or for application in the month subsequent to issuance of an MBS.

Fannie Mae also allows additional principal payments remitted by a borrower to prepay the mortgage loan as permitted by the loan documents. All borrower-remitted curtailments received by the lender prior to delivery of the loan to Fannie Mae (or MBS issuance) must be applied prior to delivery and may not be held until after loan delivery or MBS issuance. Curtailments received after loan delivery must be applied in accordance with the *Servicing Guide*.

Documentation

If the curtailment is made at the time of closing, it must be documented on the HUD-1 Settlement Statement with the amount of the curtailment and reason. If the curtailment is applied after closing, but before delivery, the file (and/or mortgage loan servicing file) must be documented with the amount of the curtailment and the reason or source of the curtailment (for example, lender refund or borrower remittance).

Delivery Requirements

The new topic in the *Selling Guide* describes the requirements for the delivery of certain data elements that may (or may not) be impacted by a curtailment applied prior to the delivery of the loan to Fannie Mae.

New Selling Guide Topic

- [B2-1.4-05](#), Principal Curtailments

Effective Date

These policies are effective immediately.

Inter Vivos Revocable Trusts

This *Selling Guide* update includes the following updates and clarifications related to mortgage loans with an *inter vivos* revocable trust borrower:

- added a definition of *inter vivos* revocable trust and statements regarding acceptability of an *inter vivos* revocable trust as an eligible borrower;
- converted specific lender representations and warranties to general requirements for such loans;
- added loan delivery data requirements for loans made to *inter vivos* revocable trust borrowers, including establishment of a special feature code (SFC 168);
- clarified signature requirements and revised Fannie Mae's forms of signatures for legal documents for loans made to *inter vivos* revocable trust borrowers to eliminate the requirement that a trustee's signature block identify the beneficiary of the *inter vivos* revocable trust; and
- added specific requirements for the use of a signature addendum to the note, which lenders sometimes use for loans to *inter vivos* revocable trust borrowers when there is not sufficient space on the note itself to include all of the required signatures.

Updated Selling Guide Topics

- [B2-2-01](#), General Borrower Eligibility Requirements (General Borrower Eligibility Requirements)
- [B2-2-05](#), *Inter Vivos* Revocable Trusts
- [B5-4-02](#), Texas Section 50(a)(6) Mortgage Eligibility (Texas 50(a)(6) Security Property)
- [B8-3-03](#), Signature Requirements for Notes (Borrowers' Signatures on Notes)
- [B8-5-02](#), *Inter Vivos* Revocable Trusts (Execution and Signature Requirements)

- [E-2-05](#), Revocable Trust Rider (Definitions Used in This Rider)
- [E-2-06](#), Signature Requirements for Mortgages to *Inter Vivos* Revocable Trusts

Effective Date

The following effective dates apply:

- The clarifications are effective immediately.
- Lenders may deliver the new special feature code immediately, and are required to deliver it for loan deliveries on or after May 1, 2013. The [Special Feature Codes](#) document has been updated to reflect the new code.
- Lenders may implement the changes to the legal documents immediately, and are required to implement them for loans closed on or after August 1, 2013.

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

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