



Selling Guide Announcement SEL-2017-10

December 19, 2017

Selling Guide Updates

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

- Underwriting Borrowers with Frozen Credit
- Texas Section 50(a)(6) Loans
- Use of Premium Pricing
- Cash-Out Refinance Waiting Periods for Properties Owned by Limited Liability Corporations
- Representation and Warranty Relief for Loans Impacted by a Disaster
- Lender Internal Audit Requirements
- Consolidation of Ownership and Retention of Loan Files and Records
- Early Funding

Each of the updates is described below. The affected topics for each policy change are listed on the Attachment. The *Selling Guide* provides full details of the policy changes. The updated topics are dated December 19, 2017.

Underwriting Borrowers with Frozen Credit

Consumers have the ability to freeze their credit files at one or more of the three national credit repositories – Experian, Equifax and TransUnion. Currently, our policy does not specifically address how to proceed when borrowers have frozen credit data at one or more of the credit repositories.

We are updating the *Selling Guide* for both manually underwritten and Desktop Underwriter® (DU®) loans to specify that if the borrower's credit information is frozen at one of the credit repositories, the credit report is still acceptable as long as

- credit data is available from two repositories,
- a credit score is obtained from at least one of those two repositories, and
- the lender requested a three in-file merged report.

If credit information is frozen at one of the credit repositories, but there is no credit score or information available from the other two credit repositories, the borrower can be underwritten under our nontraditional credit guidelines. DU has been updated to underwrite loan casefiles when a borrower has placed a freeze on their credit report at only one of the three credit repositories. A loan for a borrower with credit data frozen at two or more of the credit repositories will not be eligible either manually or in DU.

Effective Date

These changes are effective immediately for manually underwritten loans and apply to DU Version 10.0 and Version 10.1 loan casefiles submitted or resubmitted to DU beginning the weekend of November 18, 2017.

Texas Section 50(a)(6) Loans

On November 7, 2017, Texas voters approved amendments to the Texas Constitution affecting home equity lending. The amendments changed a number of provisions regarding Texas Section 50(a)(6) loans, however the impacts to the *Selling Guide* are minimal. (The Guide requires the lender to comply with the law and does not describe the requirements of the



law in detail.) For your convenience, we describe many of the changes to the law in the following table. We also describe the changes to the Guide and other impacts.

Change	Notes
The law lowers the fee limit to two percent from three percent of the original loan amount. However, it expressly excludes a) discount points used to buy down the interest rate, b) appraisal costs, c) survey costs, d) title insurance premiums, or e) a title examination report.	No impact to the <i>Selling Guide</i> . The fee limit is not described in the Guide.
The law repeals the prohibition against Texas Section 50(a)(6) loans on agricultural homesteads.	No impact to the <i>Selling Guide</i> . This prohibition was not described in the Guide.
The list of “authorized lenders” who are approved to make Texas Section 50(a)(6) loans is expanded to include a) subsidiaries of banks, savings and loan associations, savings banks and credit unions, b) mortgage bankers, and c) mortgage companies.	No impact to the <i>Selling Guide</i> . We currently require lenders and servicers to meet the eligibility criteria specified in the Texas Constitution Section 50(a)(6).
A seasoned Texas Section 50(a)(6) loan can be refinanced into a non-Texas Section 50(a)(6) loan if certain conditions are met. (In other words, the “once an A6 always an A6” policy is no longer part of the law).	<p>This required only minor updates to the <i>Selling Guide</i>.</p> <p>For this scenario, a new affidavit that conforms to Section 50(f-1) Article XVI of the Texas Constitution must be prepared and recorded. Third-party vendors are preparing this affidavit, often referred to as the “Four Conditions” affidavit.</p> <p>Note that Special Feature Code (SFC) 304 is not required for these loans as they are not Texas Section 50(a)(6) loans. Lenders must use the standard refinance special features code, as applicable.</p>
An updated <i>Notice Concerning Equity Loan Extension of Credit</i> is required.	The revised Notice must be used beginning January 1, 2018, and once signed, starts the 12 day “cooling off” period prior to closing.
The Fannie Mae/Freddie Mac Uniform <i>Texas Home Equity Security Instrument</i> (Form 3044.1), <i>Texas Home Equity Affidavit and Agreement (First Lien)</i> (Form 3185), and notes will be updated.	<p>The revised Forms (with 1/18 revision date) will be available on the Legal Documents pages of our website by the end of this month.</p> <p>There are no changes to the Texas Section 50(a)(6) riders.</p>
The <i>Equity Loan Mortgage Endorsement</i> (Form T-42) to the title insurance policy will be updated.	The timing of the updated T-42 is currently unknown. The provision in the current T-42 providing title insurance coverage against agricultural loans is no longer required. We have updated the <i>Selling Guide</i> to allow the current form of the T-42 with the agriculture requirement stricken until such time as the T-42 is updated by the Texas Land Title Association.
Minor edits to the <i>Selling Guide</i>	<ul style="list-style-type: none"> • For the sake of simplicity, we have shortened the references to “Texas Section 50(a)(6) mortgage loans” throughout the <i>Selling Guide</i> by removing the word “mortgage.” Note that if this is the only change to a topic, we did not update the topic date or list the topic in the Attachment to this Announcement. • The <i>Selling Guide</i> is updated to align with existing procedures in the <i>Servicing Guide</i> with regard to actions the lender or servicer must make if they receive notification from the borrower about non-compliance with the provisions of the law.



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| | <ul style="list-style-type: none">• We streamlined the content in B8-5-03, Texas Section 50(a)(6) Loan Documentation, to remove extraneous explanations of provisions of the law. |
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NOTE: *Lenders that originate loans in Texas should consult their legal counsel for complete details about the changes to the law.*

Effective Date

The amendments apply to Texas Section 50(a)(6) loans made on or after January 1, 2018. Because the amendments include a revised form of 12-day notice, we will not purchase these loans closed during the first 12 days of 2018. Fannie Mae will purchase Texas Section 50(a)(6) loans that meet our requirements that are closed on or after January 13, 2018.

Note that the above changes and purchasing policy do not apply to Texas Section 50(a)(6) loans that are closed in 2017.

Use of Premium Pricing

We clarified our policy on mortgage eligibility by adding requirements on premium pricing. The following changes have been made:

- The definition of premium pricing, which refers to when a borrower selects a higher interest rate on a mortgage loan in exchange for a lender credit, has been added to the Glossary.
- The lender credit cannot be used to fund any portion of the borrower's down payment or reserves, and should not exceed the amount needed to offset the borrower's closing costs.
- A lender credit derived from premium pricing is not considered an interested party contribution even if the lender is an interested party to the transaction.
- Community Seconds[®] loans used to provide down payment assistance may not be funded in any way through the first lien mortgage, such as through premium pricing.

Effective Date

These changes are effective immediately.

Cash-Out Refinance Waiting Periods for Properties Owned by Limited Liability Corporations

On November 8, 2017, the *Servicing Guide* was updated to allow a post-origination transfer into a limited liability company (LLC) under certain conditions. In acknowledgment of this change, the waiting period prior to a cash-out refinance transaction has been clarified in the *Selling Guide*. We will now allow time held in an LLC that is controlled or majority owned by the borrower(s) to count towards the borrower's six-month ownership requirement.

Effective Date

This clarification is effective immediately.

Representation and Warranty Relief for Loans Impacted by a Disaster

Currently, loans that were subject to a forbearance agreement are not eligible for enforcement relief under the representations and warranties framework. At the direction of FHFA and in alignment with Freddie Mac, we are revising the requirements to permit relief for mortgage loans subject to a disaster-related forbearance plan under Versions 1 and 2 of the framework.



To be eligible for relief, the following applies:

- The loan is impacted by a disaster occurring on or after August 25, 2017.
- The property or borrower's place of employment is located in any county, city, or parish that is designated by the Federal Emergency Management Agency as eligible for Individual Assistance as a result of a disaster.
- The loan will be eligible for relief based on payment history on the later of
 - the applicable payment history period end date as required under Version 1 or 2 of the framework; or
 - the date the loan transitions out of disaster-related forbearance and is brought current via a reinstatement, repayment plan, or permanent modification.
- The loan must be brought current through a lump sum payment or a repayment plan completed as agreed. If the forbearance plan transitioned to a permanent modification, the borrower must have completed the trial period plan and executed a permanent modification agreement for any of the modification options available through the Fannie Mae *Servicing Guide*.
- The servicer must accurately report the delinquency status codes for forbearance (09), repayment plan (12), and modifications (BF during the trial period and 28 when the permanent modification is executed). We will be relying on those codes to assess eligibility for relief, and a missing or unreported code will impact eligibility.

The period of time the loan is in forbearance "counts" toward the payment history requirement and the months in forbearance are not considered delinquent within the relief framework. For example, if the forbearance occurred during months 30-32, the loan may still be eligible for enforcement relief on or after the 36th month of payment history as long as all other payments outside the forbearance met the requirements.

Effective Date

Disaster-impacted loans on the monthly *Representation and Warranty (R&W) Relief Reports* (available on Fannie Mae Connect™) that are otherwise eligible for future relief will be evaluated starting in early 2018 for possible relief.

Lender Internal Audit Requirements

Currently, the *Selling Guide* contains a high-level requirement for lender internal audit and management control systems. With this update, we added additional details about our requirements for sellers/servicers. All sellers/servicers must have internal audit and management controls to evaluate and monitor the overall quality of their loan production and servicing, which must include the following minimum requirements:

- The procedures must be independent of all key functions of the loan manufacturing process and the servicing processes that they review.
- The seller/servicer's lines of reporting must reflect the independence of the audit process at all levels.
- The audit function must not share any reporting lines with the functional areas that it reviews.
- The audit function must report directly to the seller/servicer's senior management and/or board of directors. Exceptions are permitted in situations in which the size of the seller/servicer's organization is insufficient to support adequate resources to allow for separation of these functions.
- The procedures must be consultative, so that they help the seller/servicer accomplish its objectives by bringing a systematic, disciplined approach to evaluating and improving the effectiveness of risk management, control, and governance processes.

Effective Date

These changes must be implemented by July 1, 2018.



Consolidation of Ownership and Retention of Loan Files and Records

In our continued efforts to simplify and consolidate policies shared by the *Selling* and *Servicing Guides*, we have again updated and streamlined duplicative content in a few topics in Part A, *Doing Business with Fannie Mae*. The content consolidated with this release pertains to the ownership and retention of loan files and records.

With this update we have

- simplified the requirements for maintaining loan files and records;
- consolidated the list of documents required to be maintained in the loan file and designated whether original or copies must be retained;
- included a streamlined list of collateral documents required for manufactured home loans; and
- aligned requirements for the seller's/servicer's responsibility to ensure the proper preparation and retention of records as well as their obligation to review changes in technology associated with record keeping.

There were no changes to existing policies with this consolidation effort. The duplicate content was removed from the *Servicing Guide* on December 13, 2017.

Effective Date

These updates are effective immediately.

Early Funding

Our Loan Delivery application is being expanded to enable seamless delivery of Early Funding loans, replacing the legacy Funding Express® application. This change will allow for

- streamlined Early Funding submissions within Loan Delivery. Once you import an As Soon As Pooled® (ASAP) Plus loan, it will be available for future redelivery.
- increased transparency with more real-time updates on loan status, as well as dashboards with pipeline management capabilities.

The only change to the *Selling Guide* is the removal of references to Funding Express and replacement with Loan Delivery.

Effective Date

ASAP Plus loans may be submitted through Early Funding within Loan Delivery on or after 12/15/2017.

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
Texas Section 50(a)(6) Loans	<ul style="list-style-type: none"> ▪ A2-2.1-07, Life-of-Loan Representations and Warranties ▪ B2-1.3-05, Temporary Interest Rate Buydowns ▪ B4-1.4-10, Property Inspection Waivers ▪ B5-4-02, Disaster-Related Limited Cash-Out Refinance Flexibilities ▪ B5-4.1-01, Texas Section 50(a)(6) Loans ▪ B5-4.1-02, Texas Section 50(a)(6) Loan Eligibility ▪ B5-4.1-03, Texas Section 50(a)(6) Loan Underwriting, Collateral, and Closing Considerations ▪ B5-4.1-04, Texas Section 50(a)(6) Loan Delivery and Servicing Considerations ▪ B5-4.1-05, Texas Section 50(a)(6) Mortgage Legal Considerations (Topic deleted) ▪ B5-5.2-01, DU Refi Plus and Refi Plus Eligibility ▪ B7-2-04, Special Title Insurance Coverage Considerations ▪ B8-4-01, Riders and Addenda ▪ B8-5-01, General Information on Special-Purpose Legal Documents ▪ B8-5-03, Texas Section 50(a)(6) Mortgage Documentation (Topic deleted) ▪ D2-1-03, Outcomes of Fannie Mae QC Reviews ▪ E-3-20, Glossary of Fannie Mae Terms: T
Underwriting Borrowers with Frozen Credit	<ul style="list-style-type: none"> ▪ B3-5.1-01, General Requirements for Credit Scores ▪ B3-5.2-02, Types of Credit Reports ▪ B3-5.4-01, Eligibility Requirements for Loans with Nontraditional Credit
Use of Premium Pricing	<ul style="list-style-type: none"> ▪ B2-1.4-02, Mortgage Loan Eligibility ▪ B3-4.1-01, Minimum Reserve Requirements ▪ B3-4.1-02, Interested Party Contributions ▪ B3-4.3-06, Donations From Entities ▪ B5-5.1-02, Community Seconds Loan Eligibility ▪ E-3-16, Glossary of Fannie Mae Terms: P



Section of the Announcement	Updated <i>Selling Guide</i> Topics
Cash-Out Refinance Waiting Periods for Properties Owned by Limited Liability Corporations	<ul style="list-style-type: none">▪ B2-1.2-03, Cash-Out Refinance Transactions
Lender Internal Audit Requirements	<ul style="list-style-type: none">▪ A1-1-01, Application and Approval of Seller/Service▪ A4-1-01, Maintaining Seller/Service Eligibility
Consolidation of Ownership and Retention of Loan Files and Records	<ul style="list-style-type: none">▪ A2-5.1-01, Establishing Loan Files▪ A2-5.1-02, Ownership and Retention of Loan Files and Records▪ A2-5.2-01, Ownership of Mortgage Loan Files and Records (Deleted)▪ A2-5.2-02, Access to Records (Deleted)▪ A2-5.2-03, Retention and Storage of Mortgage File Records (Deleted)
Early Funding	<ul style="list-style-type: none">▪ C2-2-04, Timing of Distribution of Whole Loan Purchase Proceeds▪ C3-7-04, Delivering Data and Documents▪ E-3-06, Glossary of Fannie Mae Terms: F