



# Selling Guide Announcement (SEL-2020-03)

Jun. 03, 2020

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

- **Lease review requirements:** no longer requiring lenders, at the loan-level, to obtain and review the lease agreement for the specific purpose of identifying contractual tenant rights
- **Late charge on the note:** providing additional flexibility to lenders to choose the late charge amount identified in the note.
- **Escrow waiver on limited cash-out refinance:** no longer requiring borrowers to establish an escrow account when including non-delinquent taxes within a limited cash-out refinance transaction.
- **Project standards policy clarifications:** clarified requirements related to horizontal property regimes and environment hazards.
- **HomeStyle® Energy debt pay-off:** clarified that partial pay offs are not eligible when HomeStyle Energy is being used to pay off energy-related debt. **Miscellaneous updates:** [Appraisal process alignments](#), [Mortgage Banker's Financial Reporting Form 1002](#), [Form 1008 effective date](#), [Lender's QC notification process](#)

View the list of [impacted topics](#).

## Lease review requirements

Our current policy states that when documenting rental income, the lender must obtain documentation that is used to calculate the monthly rental income for qualifying purposes. If there is a lease on the property that is being transferred to the borrower, the lender must verify that it does not contain any provisions that could affect our first lien position on the property.

With this update, our policy will no longer prescribe action the lender must take at the loan level to ensure rental property leases do not adversely impact first lien position or enforceability. Instead, the method used is at the discretion of the lender (for example, obtain and review the lease agreement, and secure amendments or subordinations, as necessary). The lender continues to make all representations and warranties, including the life-of-loan representations and warranties related to title, marketability, and lien position under the Clear Title/First-Lien Enforceability provisions of the *Selling Guide*.

**Effective:** Lenders may implement this policy change immediately. Desktop Underwriter® (DU®) will be updated later in a future release to remove the message requiring review of the lease. Lenders may disregard the lease review message in DU until that time.

## Late charge on the note

The *Selling Guide* previously stated that the note for a conventional first mortgage must provide for the borrower to pay a 5% late charge on any payment not received by the 15th day after it is due, unless a lower rate is required by state law. In addition, a note that provides for a late charge of more than 5% was acceptable if the amount assessed during the time we hold the loan does not exceed 5%.

We have updated this policy to provide further discretion to our lenders. Our requirements still reflect that the amount of the late charge must be permissible under applicable law. The late charge field on the note must still be completed, but with a percentage



not to exceed 5%. We have also removed the statement that allowed for a late charge higher than 5%. As a reminder, the late charge should be calculated based on the principal and interest payment only, not including taxes, insurance, or other assessments.

**Effective:** Lenders may take advantage of these policy changes immediately.

## Escrow waiver on limited cash-out refinance

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Our current policy requires borrowers to establish an escrow account when non-delinquent real estate taxes are financed as part of a limited cash-out refinance transaction. With this update, we no longer require that an escrow account be established in order to close a limited cash-out refinance that includes non-delinquent subject property real estate taxes as part of the loan amount.

**Effective:** Lenders may take advantage of this update immediately.

## Project standards policy clarifications

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In response to lender inquiries, we have clarified the following project standards policies:

### Horizontal property regimes

We consider a development to be a condo project any time it is declared or filed as a horizontal property regime in accordance with local statutes. Exception is made if the local statute provides for the horizontal property regime to be created as a PUD development and the project's legal documents specifically state that the project is a PUD.

### Environmental hazard assessments

An environmental hazard assessment is required for condo and co-op projects if an environmental problem is identified by the lender through performance of its project underwriting or due diligence. If environmental problems are identified, the problems must be determined to be acceptable or curable through remedial actions. We require lenders to confirm the completion and effectiveness of the remedial actions based on certain conditions described in the *Selling Guide*.

Some jurisdictions or government agencies will issue a "no further action" notice (or letter) to alert the public that all available remediation steps for an environment hazard have been completed. We have updated the Guide to address "no further action" notices and require lenders to determine if the specific condition in the notice renders the project eligible or ineligible based on our environmental standards.

**Effective:** Lenders may take advantage of these policy clarifications immediately.

## HomeStyle® Energy debt pay-off clarification

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Currently, there are several HomeStyle Energy financing options available to a borrower who wishes to improve the energy and/or water efficiency of an existing property and decrease related utility costs. With this Guide update, we are clarifying that when HomeStyle Energy financing is being used to pay off energy-related debt, such as PACE or solar debt, the entire debt must be paid off. Partial payoffs are not eligible.

**Effective:** Lenders may take advantage of this policy change immediately but must implement this for HomeStyle Energy loans with application dates on or after Jul. 1 2020.



## Miscellaneous

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### Appraisal process alignments

We have updated our Guide to align with some of the current processes and systems related to performing appraisals. The following changes have been made:

- We have updated our policy to state that whole numbers are required for the Predominant Age and Predominant Price fields to align with UAD requirements and because the Uniform Collateral Data Portal (UCDP) will not accept an appraisal with anything other than whole numbers.
- To better align with our actual practice, we have updated the *Selling Guide* description of our process for referring an appraisal to a state agency.
- We have added clarification to policy concerning when an appraisal waiver is offered in DU for a recently constructed property that is 100% complete. An appraisal waiver may be offered on a recently constructed property when there is an existing “as is” prior appraisal for the subject property. As an example, an appraisal of the subject property may have been performed for a different lender or borrower, but that loan did not close. The lender may execute the appraisal waiver when the loan meets all other eligibility requirements for the transaction.

### Mortgage Banker’s Financial Report Form (MBFRF) (Form 1002)

In alignment with a previous communication from the web administrator of mbfrf.org, we added a requirement that quarterly submissions of the Mortgage Banker’s Financial Report Form (MBFRF) ([Form 1002](#)) must now be certified by the mortgage banker’s chief executive officer, chief financial officer, or equivalent. This will help ensure the completeness and accuracy of the reported information. A sample MBFRF with the updated certification language and the detailed instructions on the certification process are available on [Fannie Mae's website](#) and directly via WebMB at [www.mbfrf.org](http://www.mbfrf.org).

**Effective:** Lenders must comply with this new certification requirement beginning Sep. 30, 2020.

### Form 1008 effective date

In Dec. 2018, Fannie Mae and Freddie Mac published an updated *Uniform Underwriting and Transmittal Summary* (Form 1008). In Apr. 2019, we communicated that the effective date for use of the updated form was aligned with the mandated use of the redesigned Uniform Residential Loan Application (Form 1003), which at the time was Feb. 2020. We also updated the *Selling Guide* to allow for the use of a similar document in lieu of Form 1008.

Considering the optional nature of the Form 1008, we are no longer requiring lenders to use or implement the updated Form 1008. Lenders may use the updated Form if they so choose for manually underwritten loans. (Note that this effective date change did not require an update to the Guide.)

### Lender’s QC notification process

We updated the Guide with a minor clarification that lenders must notify their account team or QC Specialist if their QC cycle is in arrears for more than 30 days.

Lenders may also contact their Fannie Mae Account Team if they have questions about this Announcement. Have guide questions? Get answers to all your policy questions, straight from the source. [Ask Poli](#).



## Impacted Topics

Section of the Announcement	Updated <i>Selling Guide</i> Topics (Dated Jun. 03, 2020)
Lease review requirements	<ul style="list-style-type: none"><li>▪ <a href="#">B2-1.5-03, Legal Requirements</a></li><li>▪ <a href="#">B3-3.1-08, Rental Income</a></li></ul>
Late charge on the note	<ul style="list-style-type: none"><li>▪ <a href="#">B8-3-02, Special Note Provisions and Language Requirements</a></li></ul>
Escrow waiver on limited cash-out refinance	<ul style="list-style-type: none"><li>▪ <a href="#">B2-1.3-02, Limited Cash-Out Refinance Transactions</a></li></ul>
Project standards policy clarifications	<ul style="list-style-type: none"><li>▪ <a href="#">B4-2.1-01, General Information on Project Standards</a></li><li>▪ <a href="#">B4-2.1-04, Environmental Hazard Assessments</a></li><li>▪ <a href="#">B4-2.1-05, Unacceptable Environmental Hazards</a></li><li>▪ <a href="#">B4-2.1.06, Remedial Actions for Environmental Hazard Assessments Below Standards</a></li></ul>
HomeStyle Energy debt pay-off	<ul style="list-style-type: none"><li>▪ <a href="#">B5-3.3-01, HomeStyle Energy for Improvements on Existing Properties</a></li></ul>
Appraisal Process Alignments	<ul style="list-style-type: none"><li>▪ <a href="#">B4-1.3-03, Neighborhood Section of the Appraisal Report</a></li><li>▪ <a href="#">B4-1.3-12, Quality Assurance</a></li><li>▪ <a href="#">B4-1.4-10, Appraisal Waivers</a></li></ul>
Mortgage Banker's Financial Report Form (MBFRF) (Form 1002)	<ul style="list-style-type: none"><li>▪ <a href="#">A4-2-01, Financial Statements and Reports</a></li></ul>
Lender's QC notification process	<ul style="list-style-type: none"><li>▪ <a href="#">D1-3-01, Lender Post-Closing Quality Control Review Process</a></li></ul>