



# Bankers Advisory

## COMPLIANCE MONITOR

May 13, 2013

### *Fannie Mae & Freddie Mac Will Only Purchase Qualified Mortgages in 2014*

By Anna DeSimone

On May 2, 2013, the Federal Housing Finance Agency (FHFA) directed Freddie Mac and Fannie Mae ("GSEs") to limit future purchases to:

*Mortgages that are "qualified mortgages" under the final rule, including those meeting the special or temporary qualified mortgage requirements*

*Mortgages that are exempt from the ability to repay requirements, such as investor transactions*

On January 10, 2013, the Consumer Financial Protection Bureau (CFPB) issued a final rule implementing the ability to repay provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("final rule"). The final rule generally requires a Seller to make a reasonable, good faith determination of a borrower's ability to repay before originating a mortgage and establishes certain protections from liability for qualified mortgages. The final rule will be effective for mortgages with applications received on or after January 10, 2014.

#### **Fannie Mae**

Fannie Mae issued LL-2013-05: *Qualified Mortgages (05/06/13)* which included the following key information:

On May 2, 2013, FHFA directed Fannie Mae and Freddie Mac (the GSEs) to limit future acquisitions to loans that:

*Are qualified mortgages under the ability to repay rule, including those meeting the special or temporary qualified mortgage requirements; or*

*Are exempt from the ability to repay requirements, such as investor transactions.*

Therefore, effective for mortgages with application dates on or after January 10, 2014, Fannie Mae will not be allowed to purchase any loans if they are subject to the ability to repay requirements and are either:

*Loans that are not fully amortizing (e.g., no negative amortization or interest-only loans);*

*Loans with terms in excess of 30 years (e.g., no 40-year terms); or*

*Loans with points and fees in excess of 3% of the total loan amount or such other limits for low balance loans as set forth in the ability to repay final rule.*

Fannie Mae will continue to purchase loans that meet the underwriting and delivery eligibility requirements (e.g., existing debt-to-income ratios, loan-to-value ratios, and reserves) stated in the *Selling Guide*, including loans processed through Desktop Underwriter.

### **Additional Guidance**

Fannie Mae currently intends to continue purchasing Refi Plus and DU Refi Plus loans and loans sold under written variances to the *Selling Guide*. However, the CFPB has not yet issued a final rule regarding these items. Precisely whether and how these purchases will be affected will depend on the final rule.

As the industry adopts the ability to repay rule, Fannie Mae will monitor market dynamics and work with FHFA to determine if additional underwriting, eligibility, and/or pricing changes should be made.

For loans with application dates on or after January 10, 2014, Fannie Mae will rely upon lender selling representations and warranties that the loans are qualified mortgages. Fannie Mae has a longer term goal to collect and assess data on these loans to assist in validating whether they meet certain qualified mortgage criteria. This process will be phased in over time.

Fannie Mae will also determine if changes are required to the post-purchase file review processes, repurchase requirements, and/or updates to the overall representation and warranty framework.

### **Freddie Mac**

Freddie Mac issued Industry Letter 05/06/2013: *CFPB Final Rule on Ability to Repay and Qualified Mortgage Requirements (05/06/13)* which included the following key information:

Effective for mortgages subject to the final rule with applications received on or after January 10, 2014, Freddie Mac will not be permitted to purchase the following:

*Mortgages that are not fully amortizing (e.g., mortgages with a potential for negative amortizations or interest-only mortgages)*

*Mortgages with terms in excess of 30 years (e.g., 40-year fixed-rate mortgages)*

*Mortgages with points and fees in excess of 3% of the total loan amount or such other limits for low balance mortgages as set forth in the final rule*

Freddie Mac will continue to purchase mortgages that meet existing *Single-Family Seller/Servicer Guide* ("Guide") underwriting and delivery eligibility requirements (e.g., debt-to-income ratio, loan-to-value ratio and reserve requirements), provided they do not fall into the three categories listed above. This includes mortgages that are evaluated through Loan Prospector.

### **Additional Guidance**

Freddie Mac currently intends to continue purchasing Freddie Mac Relief Refinance Mortgages and mortgages sold under written negotiated terms and exceptions to the Guide; however, the CFPB has not yet issued a final determination regarding these items. Whether and how these purchases will be affected in the future will depend on that final determination.

As the industry adopts the final rule, Freddie Mac will monitor market dynamics and work with FHFA to determine if additional updates to our underwriting and eligibility requirements and/or pricing changes should be made.

Initially, for mortgages with applications received on or after January 10, 2014, Freddie Mac will rely on selling representations and warranties that the mortgage is a qualified mortgage. In the future, Freddie Mac plans to collect and assess data on these mortgages to assist in validating whether they meet certain qualified mortgage criteria. This process will be phased in over time. They will also determine if the final rule requires changes to our post purchase file review processes, repurchase requirements and/or updates to our overall selling representation and warranty framework.



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