MPF® Announcement

MPF Announcement:
2020-16

Date:
April 6, 2020

Alert:
Clarification
New Policy
Policy Update
Reminder
Training Information

Audience:
Compliance/Legal
Program Management
Origination
Quality Control
Servicing
Underwriting

Product:
MPF Direct
MPF Government MBS
MPF Traditional
MPF Xtra®

Effective Date:

Immediately *(unless otherwise noted)*

Impact of COVID-19 on MPF Traditional (Conventional) Mortgage Loan Originations

The MPF Program is actively monitoring reports about the potential impact of COVID-19 (coronavirus) on borrowers, PFIs and Servicers. We are communicating temporary policies in this MPF Announcement to enable PFIs to better assist MPF Traditional (Conventional) loan borrowers impacted by COVID-19. The policies in this Announcement are effective as provided for in each section below.

PFIs and Servicers are expected to abide by any/all federal or state laws or proclamations that may affect borrowers or loans affected by COVID-19.

In addition, PFIs and Servicers originating, delivering or servicing:

- MPF Government loans and MPF Government MBS loans must follow relief policies and guidance issued by the applicable Government Agencies.
- MPF Xtra loans must follow relief policies and guidance issued by Fannie Mae. (Fannie Mae's COVID-19 webpage.)
- MPF Direct loans must follow relief policies and guidance issued by the product's investor, Redwood Trust.

The MPF Program will continue to evaluate the situation to determine whether this Announcement or MPF Guide provisions should be modified to provide additional relief.

Reference

Please note you can access the MPF Guides and MPF Announcements on our MPF Website.

Visit the MPF Website to review and register for upcoming complimentary MPF Webinars.

Follow Us

MPF Traditional

PFIs and Servicers of **MPF Traditional (Conventional)** loans should be familiar with previous COVID 19 related announcements:

- MPF Announcement 2020-15 - Impact of COVID-19 on Appraisals
- MPF Marketing Bulletin 2020-04 - MPF Program Weekly Recap - COVID 19 Communications
- MPF Announcement 2020-14 - Impact of COVID-19 on Appraisals
- MPF Announcement 2020-12 - Impacts of COVID-19 on Servicing
- MPF Announcement 2020-10 - Impact of COVID-19 on Mortgage Loan Originations
- MPF Announcement 2020-9 - Servicing Updates on the Impacts of COVID-19
- MPF Announcement 2020-7 - Important Seller/Servicer Information on Potential Impacts of COVID-19

Age of documentation

Effective: PFIs are encouraged to apply these updates to existing loans in process; however, they must be applied to loans with application dates on or after April 14, 2020 through May 17, 2020.

To ensure the most up-to-date information is being considered to support the borrower's ability to repay, the MPF Program is updating its age of documentation requirements for all loans (existing and new construction) as follows:

- Age of document requirements as provided for in MPF Traditional Selling Guide 5.1.3, is modified from four months (120 days) to two months (60 days) for most income and asset documentation. If an asset account is reported on a quarterly basis, the Originator must obtain the most recently issued quarterly statement.

- When an Originator receives employment and income verification directly from a third-party employment verification vendor, the information in the vendor's database must be no more than 60 days old as of the note date.

- No changes are being made to the age of documentation requirements for military income documented using a Leave and Earnings Statement, Social Security, retirement income, long-term disability, mortgage credit certificates, public assistance, foster care, or royalty payments, and the Originator can continue to apply standard age of document requirements as stated in the MPF Traditional Selling Guide.

- Due to the federal income tax filing extension granted through July 15, 2020, the following documentation requirements are being eliminated. These normally apply for income types that require copies of federal income tax returns when the mortgage has an application or disbursement date between April 15th and July 15th:
    - a copy of the IRS Form 4868 (Application for Automatic Extension of Time to File U.S. Individual Tax Return), and
    - IRS Form 4506-T (Request for Transcript of Tax Return) transcript confirming "No Transcript Available" for the 2019 tax year.

All other requirements contained in the MPF Traditional Selling Guide related to allowable age of credit documents and Federal Income Tax Returns continue to apply.

Verification of self-employment

Effective: PFIs are encouraged to apply these updates to existing loans in process; however, they must be applied to loans with application dates on or after April 14, 2020 through May 17, 2020.

When a borrower is using self-employment income to qualify, the Originator must verify the existence of the borrower's business within 120 calendar days prior to the note date. Due to latency in system updates or recertifications using annual licenses, certifications, or government systems of record, Originators must take additional steps to confirm that the borrower's business is open and operating. Originators must confirm this within 10 business days of the note date (or after closing but prior to delivery).

Below are examples of methods Originators may use to confirm the borrower's business is currently operating:

- evidence of current work (executed contracts or signed invoices that indicate the business is operating on the day the Originator verifies self-employment);
- evidence of current business receipts within 10 days of the note date (payment for services performed);
- Originator certification that the business is open and operating (Originator confirmed through a phone call or other means); or
- business website demonstrating activity supporting current business operations (timely appointments for estimates or service can be scheduled).

See MPF Traditional Selling Guide section 5.9.1 - Verbal Verification of Employment for current requirements.

Market-based assets

Effective: PFIs are encouraged to apply these updates to existing loans in process; however, they must be applied to loans with application dates on or after April 14, 2020 through May 17, 2020.

In light of current market volatility, the MPF Program is making the following updates when the borrower is using stocks, stock options, or mutual funds for assets:

- When used for down payment or closing costs, evidence of the borrower's actual receipt of funds realized from the sale or liquidation must be documented in all cases.
- When used for reserves, only 70% of the value of the asset must be considered, and liquidation is not required.

See MPF Traditional Selling Guide section 5.20.7 - Stocks and Bonds for current requirements.

Powers of attorney

Effective: Unless otherwise noted in this section below, these accommodations are effective immediately for all loans in process and remain in place for loans with application dates on or before May 17, 2020.

MPF Traditional Selling Guide section 10.2.6 - Power of Attorney contains requirements for powers of attorney. For loans with application dates on or before May 17, 2020, the following **additional** requirements for using a power of attorney apply:

- All powers of attorney must include the address of the mortgaged property.
- The existing Guide conditions allowing persons "connected to the transaction" to serve as an attorney-in-fact or agent in refinance transactions will also now apply to purchase transactions as well as limited cash-out refinances.
- An individual who would otherwise be prohibited from serving as an attorney-in-fact or agent under the Guides, may execute the required loan documents on behalf of the borrower(s), provided all of the following conditions are met:
    - The attorney-in-fact or agent is not an employee of the Originator.
    - The power of attorney expressly states an intention to secure a loan not to exceed a stated amount from a named Originator on a specific property.
    - The power of attorney expressly authorizes the attorney-in-fact or agent to execute the required loan documents on behalf of a borrower only if the borrower has, to the satisfaction of the attorney-in fact or agent in a recorded, interactive session conducted via the Internet, both:
        - confirmed his or her identity; and
        - reaffirmed, after an opportunity to review the required loan documents, his or her agreement to the terms and conditions of the required loan documents evidencing such transaction and to the execution of such required loan by such attorney-in-fact or agent.
    - PFI must produce at the request of its MPF Bank or the MPF Provider at any time during the term of the related loan, within a commercially reasonable time following such request and without additional expense to MPF Bank or MPF Provider, a recording and other documentary media memorializing the entirety of the interactive session.
- Unless a recorded Internet session described in the paragraph above is required, a power of attorney may only be used in a purchase transaction with a note date on or after April 7, 2020, if, after the Closing Disclosure or other closing statement, as applicable,

has been delivered to the borrower before closing, an employee of the Originator or settlement agent explains the terms of the loan to the borrower(s) to confirm that each borrower understands them. This discussion must take place in person, telephonically or using a video conference system, and must be memorialized by an acknowledgment by the borrower(s) of his or her understanding of the terms of the loan. The acknowledgment may be in writing or in a recording of the telephonic or video discussion.

- Notwithstanding anything to the contrary in the Guides or this Announcement, for purchase transactions, the attorney-in-fact or agent may not be the property seller, any relative of the property seller, or any direct or indirect employee or agent of the property seller, unless in any such instance such person is also a relative of the borrower.
- Whenever an attorney-in-fact or agent is an employee of the insuring title insurer or is an employee of the policy-issuing agent of the insuring title insurer, such title insurer must have issued a closing protection letter (or similar contractual protection) for the transaction for such policy issuing agent.
- Whenever a power of attorney is used at closing, whether authorized under the Guide or under the standards in this Announcement, the borrower's personal signature on the initial Form 1003 continues to be required if the initial Form 1003 can be signed personally (including through the United States Postal Service or commercial delivery service), or signed electronically as permitted by the Guides. If the initial Form 1003 cannot be timely signed by the borrower in these ways, then it must be signed by the holder of such power of attorney.
- Provided the power of attorney is not required to be notarized under applicable law (for example, the law governing the creation of the power of attorney, or the law of the location of the mortgaged property), the power of attorney is not required to be notarized if the transaction is a limited cash-out refinance unless:
    - the attorney-in-fact or agent named in the power of attorney is employed by, or otherwise represents or is affiliated with, the title insurance company that will issue the Originator's title insurance policy, and
    - such title insurance company is affiliated with the Originator.
- If a power of attorney is required to be notarized, it may be remotely notarized in accordance with MPF Program Guide section 7.4.1 - Electronic Notarization (or Remote Notarization) (as revised by this Announcement) with the additional accommodation that it may be remotely notarized in all jurisdictions, even if not expressly permitted by the Guides, as long as the power of attorney is not required to be recorded. If the power of attorney is required to be recorded, it may be remotely notarized **only in the jurisdictions where the laws and regulations of the state in which the mortgaged property is located either expressly permit the use of remote notarization (such as Virginia and Montana) or expressly accept remote notarizations performed out-of-state in accordance with the laws of the state in which the notarial act is performed (as revised by the table below**).
- The limitations in MPF Traditional Selling Guide section 10.2.6 - Power of Attorney requiring at least one borrower signature of the note and security instrument are suspended.

The following existing policies remain in effect for loans using powers of attorney authorized by the Guides as revised by this Announcement:

- PFIs may not deliver loans to the MPF Program that have unacceptable title impediments. Accordingly, the PFI must confirm that the title insurance policy does not take exception to the power of attorney, its manner of creation, the effectiveness of its notarization (if any) or to its use in relation to the transaction in accordance with MPF Traditional Selling Guide Section 9.6 Acceptable Title Exceptions.
- Originators must comply with all federal, state and local laws in accordance with MPF Program Guide Chapter 7. In addition, for Texas Section 50(a)(6) loans, PFIs should contact their MPF Bank.
- The current and revised provisions of MPF Traditional Selling Guide section 10.2.6 - Power of Attorney are always subject to the Originator's determination that applicable law requires the acceptance of a power of attorney in particular circumstances.

- This remains in place, as does the requirement that the Originator document its determination in the loan file.

Remote online notarization

Effective: These policies for remote online notarization are effective immediately for all loans and are intended to remain in effect until further notice.

Due to disruption related to COVID-19, many PFIs are reporting difficulty in obtaining in person notarizations and have requested increased flexibility to obtain remote notarizations (RON) to be used with ink-signed transactions. MPF Program Guide section 7.4.1 - Electronic Notarization (or Remote Notarization) describes the MPF Program's current policies with respect to using RON and with this Announcement will allow the following accommodations.

PFIs may sell loans with remotely notarized loan documents **in the states listed in the table below,** on the following terms and conditions:

- The notarization is performed in accordance with and is legally valid under the laws and regulations of the state in which the notarization is performed, at the time it was performed, and in compliance with the Uniform Electronic Transactions Act, as adopted in such state, and the Electronic Signatures in Global and National Commerce Act.
- The notary public is licensed and physically located in the state where the notarial act occurred and, where required by law or regulation, is specifically licensed to perform a remote online notarization.
- The loan is delivered with Special Feature Code 861 if the remotely notarized document is a security instrument or amendment to the security instrument.
- The loan is not a Texas Section 50(a)(6) loan.
- The system used for the remote notarization must meet the following minimum standards:
    - at least two-factor identity authentication, including using a government-issued photo ID that has a signature, credential analysis and identity-proofing;
    - tamper-sealed notarized documents and system security sufficient to (A) prevent interference with the authenticity, integrity and security of the notarial ceremony or corruption or loss of the recording of the same, and (B) protect the communication technology, electronic record and backup record from unauthorized use;
    - the remote online notary must keep a secure electronic journal of the notarial act including evidence of identity of the principal (a video and audio conference can be the basis for satisfactory evidence of identification) and maintain a backup of the electronic record; and
    - recording of the notarial ceremony with storage for the minimum period required by applicable laws or if no period is specified in the applicable law, for seven years.
- The PFI must maintain the recording of the notarial ceremony for the life of the loan.
- If the loan document is required to be recorded, then the county recorder in the state and county where the property is located must accept the remotely notarized document for recording.
- The PFI makes all selling representations and warranties per the Guides, including representations and warranties related to:
    - clear title and first lien enforceability;
    - compliance with laws and responsible lending practices; and
    - requirements regarding title insurance. If the notarized document is a security instrument or an amendment to a security instrument, the remote notarization must comply with the following title requirements and the title insurance company may not take any exception for the remotely notarized loan:
        - an affirmative endorsement to the title insurance policy must be obtained regarding Exclusion 3(b) in the standard ALTA terms and conditions; or
        - the title insurer has not taken an exception for the remote for the remotely notarized loan:

  - an affirmative endorsement to the title insurance policy must be obtained regarding Exclusion 3(b) in the standard ALTA terms and conditions; or
  - the title insurer has not taken an exception for the remote notarization in the title insurance policy and all related communications with the title insurer are kept in the mortgage loan file.
- Originators may not require a borrower to use remote notarization and must have other notary options for borrowers available.

LIST OF STATES PERMITTING REMOTE NOTARIZATION		
Alabama	Louisiana	North Dakota
Alaska	Maryland	Ohio
Arizona	Massachusetts	Oklahoma
Colorado	Michigan	Oregon
Connecticut	Minnesota	Pennsylvania
Delaware	Missouri	South Carolina
District of Columbia	Montana	South Dakota
		Tennessee
Florida	Nebraska	Texas
Idaho	Nevada	Utah
Illinois	New Hampshire	Vermont
Indiana	New Jersey	Virginia
Iowa	New Mexico	Washington
Kansas	New York	Wisconsin
Kentucky	North Carolina	Wyoming

If, after the publishing of this Announcement, a state not included in the above table expressly adopts a law that expressly permits the use of remote notarization or expressly accepts (either through state law or through the application of an express federal law) remote notarizations performed out-of-state in accordance with the laws of the state in which the notarial act is performed, remotely notarized loan documents meeting the requirements above will be permitted.

Quality control requirements

Effective: These temporary accommodations are effective immediately for all loans in the process of a post-closing quality control (QC) review and all loans selected for a post-closing QC review until June 2020 QC selections.

QC processes are designed to inform organizations of the level of quality risk they are incurring, and are extremely important, especially during times of significant stress. The MPF Program recognizes the unique challenges in the market today related to COVID-19 and will allow temporary post-closing accommodations related to reverifications and appraisal field reviews.

NOTE: Recognizing the unprecedented amount of stress in the market from COVID19 disruptions and significant volume pressure, we encourage PFIs to only adopt the QC accommodations they feel are necessary.

Reverifications

Any income, employment, and asset reverifications (required by the MPF Program Guide Section 8.7 Reverifications) that are typically mailed can be completed verbally or electronically. If a verbal or electronic reverification cannot be completed, the PFI can complete the file review without the reverification. However, to take advantage of this accommodation, the PFI must:

- internally track all loans that did not have a successful reverification attempt during this time, and
- conduct a special discretionary sample of such mortgages and perform the required reverifications on the sample population upon the expiration of these accommodations.

As reminders:

- The reporting requirements in the MPF Program Guide Section 8.10 Reporting Requirements continue to apply with respect to this special discretionary sample(s).
- PFIs are not required to perform post-closing QC reverifications if the loan has employment, income, and/or assets that have been fully validated through the DU or LPA validation service and the PFI has complied with all DU or LPA messages.

Field review of appraisals

In lieu of obtaining field reviews on 10% of its random sample (as required by the MPF Program Guide Section 8.9 Review of Appraisals) a PFI may leverage third-party tools for this 10% sample.

- If the reviewer reaches a different opinion regarding the value of the property through this process, then, if possible, the PFI may obtain a field review to determine whether the property value can be supported. If a field review of the property is not possible, the PFI should follow self-report procedures in the MPF Program Guide Section 8.10 Reporting Requirements As a reminder, a desk review by the PFI's QC staff is still required on the remaining 90% sample.

Prefunding QC reviews

Our prefunding review requirements in the MPF Program Guide Section 8.5.2 Pre-Closing Sample Selection, already provide a great deal of flexibility to PFIs regarding both sample size and scope of review (full file or component review). We do not dictate a certain review percentage but leave that to each PFI based on its unique quality situation. In addition, reverifications are not required in the prefunding space. Accordingly, we are not changing any prefunding QC requirements at this time.