MPF® Announcement

MPF Announcement:
2022-07
Date:
February 23, 2022

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 Originations of MPF Traditional (Conventional) Loans

In a continuing effort to monitor the spread of COVID-19 and concerns about its potential impact on borrowers, businesses, and loan originations, the MPF Program is issuing this guidance on originating and delivering MPF program mortgage loans, which in some instances reminds PFIs of current or announced temporary policies, and in other instances creates new temporary policies. This guidance supersedes any conflicting current Guide provisions or recent COVID-19 announcements.

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.
- MPF Direct loans must follow relief policies and guidance issued by the product's investor, Redwood Trust.

In addition, 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.

Changes since MPF Announcement 2021-61:

- Updated the requirements for borrowers using self-employment income to qualify, the policy in the section are effective for mortgage loans where the most recent tax return being used to document and support qualifying income is older than 2020.
- Removed the Power of Attorney temporary accommodations since they have been made permanent.

Reference

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

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- Removed all prior COVID policies that expired in 2021.

The following temporary policies are covered in this announcement. New and updated policies are noted, other policies remain as originally issued:

- Eligibility requirements for purchase and refinance transactions (Issued June 9, 2020)
- Delivery of loans in loss mitigation plan and Early Payment Default (EPD) (Issued April 21, 2002, updated April 22, 2020, May 6, 2020, and September 29, 2020)
- Verification of self-employment (Issued April 6, 2020, updated May 6, 2020, June 17, 2020, July 22, 2020, and September 9, 2020)
- Requirements for borrowers using self-employment income to qualify (Issued June 9, 2020, updated November 24, 2020, February 23, 2022) (UPDATED)
  - Income Analysis
  - Business Income Calculation Adjustment
  - Business Assets
- Continuity of income (Issued March 24, 2020, updated May 6, 2020, June 17, 2020, July 22, 2020, and September 9, 2020, September 29, 2020, October 27, 2020, November 24, 2020, December 23, 2020, January 27, 2021, February 24, 2021, April 5, 2021, and April 28, 2021)
- Unemployment benefits qualifying as income (Issued May 6, 2020)
- Furloughed Borrowers (Issued May 6, 2020)
- Title insurance (Issued March 24, 2020)
- Notes, electronic records, and signatures (Issued March 24, 2020)
- Remote online notarization (Issued March 24, 2020, updated May 4, 2020)
- Automated Underwriting Systems (AUS) (Issued April 6, 2020)
- Business continuity (Issued March 24, 2020)
- Seasoned loans (Issued March 24, 2020)
- General resources

Eligibility requirements for purchase and refinance transactions

PFIs continue to have the obligation to review each borrower's credit report to determine the status of all the borrower's debts and liabilities, and apply due diligence for each mortgage loan on which a borrower is obligated, including co-signed mortgage loans and mortgage loans not related to the subject transaction, to determine whether the payments are current as of the note date of the new transaction. For the purposes of these requirements, "current" means all mortgage payments due in the month prior to the note date of the new loan transaction were made by no later than the last business day of that month. Other than MPF Xtra loans, the MPF Program is not providing any accommodations to the current MPF Guide provisions with regard to these requirements when a borrower is already obligated on a mortgage loan that is not current and where any payments were missed, even if the reason for the missed payments is COVID-19 related.

Effective: June 9, 2020

Delivery of loans in loss mitigation plan and Early Payment Default (EPD)

Other than MPF Xtra loans, the MPF Program only accepts loans that are current on Funding Date (i.e., the date the loan is sold into the Program), mortgage loans in a loss mitigation plan (such as forbearance plan, repayment plan or other such plan) or loans with material modifications, such as changes to the original loan amount, interest rate, final maturity, or product structure, are not eligible for delivery to into the MPF Program.

This includes loans under the Colonial Savings Servicing Released option for MPF Traditional. Colonial Savings will not purchase mortgage servicing for MPF Traditional loans in forbearance or on a forbearance plan.

This includes loans that are committed to Colonial and are then placed on a forbearance plan prior to servicing file delivery to Colonial or are placed on forbearance beginning with the First Payment Due to Colonial Savings. In the event that a loan is placed on a forbearance plan within 60 days of delivery to Colonial, Colonial will continue to service the loan, but will pay zero SRP for the servicing and charge additional loan servicing administration fees.

Mortgage loans for which borrowers are granted relief due to COVID-19 related circumstances after Funding Date are exempt from the Early Payment Default QC reviews, provided that the following requirements are met:

- PFIs must keep records for all loans that were EPD but not reviewed so that, after they emerge from a COVID forbearance, an origination review can be conducted if appropriate; and
- PFIs must also review the population of EPD loans that received relief due to COVID-19 for payment irregularities, such as limited or no payments made, which may indicate presence of origination defects. Loans with payment irregularities must undergo an EPD origination QC review even if the loan is under a COVID-19 related forbearance plan.

MPF Xtra loans in forbearance due to COVID-19 may be delivered if they meet all requirement provided by Fannie Mae for such loans, including requirements detailed in Fannie Mae's Lender Letter 2020-06, and any other applicable announcements.

Effective: April 22, 2020 for MPF Xtra Loans and April 21, 2020 for all other MPF products. (Updated on May 6, 2020 and September 29, 2020)

Verification of self-employment

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.

Effective: PFIs were encouraged to apply these accommodations to existing loans in process as of April 6, 2020, and were required to apply them to loans with application dates on or after April 14, 2020 and is in place until further notice. (Updated May 6, 2020, June 17, 2020, July 22, 2020, and September 9, 2020)

Requirements for borrowers using self-employment income to qualify (UPDATED)

The policies in this section are effective for mortgage loans where the most recent tax return being used to document and support qualifying income is older than 2020.

1. Income Analysis

Self-employed income from a business that has been negatively impacted by changing conditions may be eligible for use in qualifying the borrower, if the Originator determines the borrower's income is stable and has a reasonable expectation of continuance. Originators must obtain the following additional documentation to support the decision that the self-employment income meets MPF Program requirements:

- an audited year-to-date profit and loss statement reporting business revenue, expenses, and net income up to and including the most recent month preceding the loan application date; or
- an unaudited year-to-date profit and loss statement signed by the borrower reporting business revenue, expenses, and net income up to and including the most recent month preceding the loan application date, and three business depository account(s) statements no older than the latest three (3) months represented on the year-to-date profit and loss statement.
  - For example, the business depository account statements can be no older than August, September, and October for a year-to-date profit and loss statement dated through October 31, 2020.
  - If the three (3) most recent depository account statements conflict with the information presented in the current year-to-date profit and loss statement, the Originator must obtain additional statements or other documentation to support the information from the current year-to-date profit and loss statement.

NOTE: The year-to-date profit and loss statement must be no older than 60 days old as of the note date consistent with Age of Documentation requirements provided for below.

Originators must review the profit and loss statement, and business depository accounts if required, and other relevant factors to determine the extent to which a business has been impacted by COVID-19. The Originator can use the following guidance when performing the assessment of business operations and stability and must complete the business income assessment based on the minimum additional documentation above. In some instances, the Originator may find it necessary to obtain supplemental documentation listed in the examples below.

Assessing the Impact of COVID-19	
Business Operations	• Have business operations been maintained or modified to support continued business income? *For example, review an updated business plan.* • Is the business continuing to operate in the current location or an alternate location suitable for business operations? *For example, perform an Internet search or verify through a third-party source.* • Is there a demand for the product or service currently offered by the business? *For example, obtain current business receipts or purchase contracts.* • Is the business operation and/or revenue temporarily restricted due to state shelter in place, stay at home or other similar state or local orders? • Is the impact to the business operations negligible due to the nature of the business? *For example, obtain a written explanation from the business owner or confirmation that income is seasonal apart from the event timeline.*

Business Income	The Originator must complete a business income assessment by comparing the year-to-date net business income from the year-to-date profit and loss statement to historical business income calculated using Income Analysis Form (Form 1084/Fannie Mae, Form 91/Freddie Mac) for a similar timeframe (such as monthly). This form must be included in the Mortgage Loan File. • Originators can make standard adjustments to business cash flow (net income on the profit and loss statement) in accordance with MPF Traditional Selling Guide Section- 5.14 Self-Employment Income when making this determination. • When the Originator determines net business income is impacted, but profit and loss details are not sufficient to determine the income is stable at the reduced level, the Originator can obtain additional documentation to supplement the profit and loss statement (such as a month-to month income trending analysis) to make this determination. If stability cannot be confirmed, the income is not eligible for qualifying purposes. See MPF Traditional Selling Guide section- 5.14 Self-Employment Income for additional details. **Example:** Historical monthly self-employment income calculated using Form 1084 = $2,000 Current level of stable monthly self-employment income as determined by the Originator using details from the year-to-date profit and loss statement and other supplemental documentation = $1,000
Business Stability	• Does the profit and loss identify a significant imbalance between expenses and revenue that may impact financial stability? Or have modifications to current business operations been made to correct this imbalance? (Consider documenting with an updated business plan) • Do prior year business tax returns demonstrate ample financial liquidity due to a history of retained earnings? • Do current business account balances (excluding Paycheck Protection Program (PPP) or other similar COVID-19 related loans or grants) support the financial ability of the business to operate given current market and economic conditions? A current balance sheet may be used to support the Originator's determination of business stability, in conjunction with the profit loss statement.

2. Business Income Calculation Adjustment

When the Originator determines current year net business income has been impacted by the COVID-19 pandemic and is:

- less than the historical monthly income calculated using Form 1084, but is stable at its current level, the Originator must reduce the amount of qualifying income calculated using Form 1084 to no more than the current level of stable income as determined by the Originator (see Business Income above).
- more than the historical income calculated using Form 1084, the Originator must use no more than the currently stable level of income calculated using Form 1084 to qualify the borrower.

In all cases, qualifying income must be supported by documentation, including any supplemental documentation obtained by the Originator.

3. Business Assets

We are clarifying that proceeds from the Small Business Administration PPP or any other similar COVID-19 related loans or grants are not considered business assets. Please see MPF Traditional Selling Guide- 5.20 Acceptable Sources of Assets.

Effective: PFIs are encouraged to apply these requirements to existing loans in process as of June 9, 2020; however, they must be applied to loans with application dates on or after June 11, 2020. The updated requirements to obtain three business depository account statements (increased from two statements) with an unaudited profit and loss statement and to review the depository account statements to support the level of business revenue reported in the current YTD profit and loss statement were effective for loan applications dated on and after December 14, 2020. All policies are effective for mortgage loans where the most recent tax return being used to document and support qualifying income is older than 2020 (Updated November 24, 2020, February 23, 2022)

Continuity of income

Only QM Safe Harbor loans that meet Ability to Repay are eligible for the MPF program. These requirements are not being waived in any way by this MPF Announcement, therefore PFIs selling loans into the MPF Program continue to have the responsibility of ensuring all loans meet these requirements.

To that end, Originators are expected to practice additional due diligence to ensure the most recent income information is obtained and are strongly encouraged to help ensure any disruption to borrowers' employment (or self-employment) and/or income due to COVID-19 is not expected to negatively impact their ability to repay the loan.

As an example of additional due diligence for a self-employed borrower, Originators can verify the borrower's business is operational closer to the note date rather than the current MPF Guide requirements (e.g., within 15 days instead of 120 days).

Effective: March 24, 2020 and is in place until further notice. (Updated May 6, 2020, June 17, 2020, July 22, 2020, September 9, 2020, September 29, 2020, October 27, 2020, November 24, 2020, December 23, 2020, January 27, 2021, February 24, 2021, April 5, 2021, and April 28, 2021)

Unemployment benefits qualifying as income

Originators must comply with the requirements provided for in the MPF Traditional Selling Guide Section 5.16.20 - Unemployment Income, pertaining to the use of unemployment benefits. Unemployment benefits can used to qualify a Borrower if the income has been documented for two (2) years and is expected to continue.

Many unemployed and furloughed individuals are eligible for unemployment benefits under the CARES Act; however, unemployment compensation is short-term in nature and is therefore not a reliable and predictable source of income for Borrowers.

Effective: May 6, 2020

Furloughed Borrowers

The COVID-19 pandemic has resulted in an increase in furloughed employees. A furlough is a suspension from active employment that does not typically guarantee restoration of an employee's position when the furlough period ends. Until furloughed employees actually return to work, they are unable to provide evidence of a stable and reliable flow of employment-related income and are therefore ineligible. (See MPF Traditional Selling Guide Section 5.10 Income Analysis)

Effective: May 6, 2020

Title insurance

While closures of recording offices present challenges with compliance of MPF Program title requirements in MPF Traditional Selling Guide Section 9.3.3 ALTA Policy Form, Originators are reminded that the MPF Program permits lender's policies of title insurance written on the 2006 ALTA loan title insurance form or a local equivalent. Covered Risk 14 in the 2006 ALTA form includes "gap coverage" for matters arising between the loan closing date and the mortgage recording date. This coverage is acceptable only if there is no exception for this coverage under Schedule B of the policy.

Effective: March 24, 2020

Notes, electronic records, and signatures

Originators are reminded that the MPF Program Guide section 7.4 currently permits all borrower facing documents to be esigned, with the exception of the promissory note and the security instrument, which **must be** wet signed. The MPF Program requires the original promissory note be in the possession of the custodian within seven (7) calendar days of the Funding Date by the MPF Bank. See MPF Traditional Selling Guide section 15.3 Initial Certification Review.

Effective: March 24, 2020

Remote online notarization

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	Kansas	North Dakota
Alaska	Kentucky	Ohio
Arizona	Louisiana	Oklahoma
Arkansas	Maryland	Oregon
Colorado	Massachusetts	Pennsylvania
Connecticut	Michigan	South Carolina
Delaware	Minnesota	South Dakota
District of Columbia	Missouri	Tennessee
	Montana	Texas

Florida	Nebraska	Utah
Georgia	Nevada	Vermont
Hawaii	New Hampshire	Virginia
Idaho	New Jersey	Washington
Illinois	New Mexico	Wisconsin
Indiana	New York	Wyoming
Iowa	North Carolina	

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.

Effective: April 6, 2020 (updated as of May 4, 2020, and remain in effect until further notice.)

Automated Underwriting Systems (AUS)

Pursuant to the MPF Traditional Selling Guide Section 4.2.1, MPF Traditional (Conventional) Mortgage Loans may be underwritten with either AUS (Fannie Mae's Desktop Underwriter® (DU®) or Freddie Mac's Loan Product Advisor®) and must follow the overall program requirements, underwriting requirements, and eligibility requirements of the applicable GSE for that Mortgage Loan. The MPF Guides provide certain MPF Program Requirements that supersede Fannie Mae/DU and Freddie Mac/Loan Product Advisor requirements, including the requirement that a there be a full Interior/Exterior Appraisal, or a DU eligible Appraisal Waiver if the MPF Program and any specific MPF Bank requirements for appraisal waivers are met.

The COVID-19 related appraisal accommodations provided for this Announcement supersedes the current full Interior/Exterior Appraisal requirement.

Effective: April 6, 2020

Business continuity

PFIs are reminded, that they must have a business continuity/disaster recovery program in place to support its ongoing ability to conduct business operations, among other things, in the event of an interruption to business operations and processes.

Effective: March 24, 2020

Seasoned Loans

As a reminder, closed mortgage loans where documentation at closing may not meet current MPF Program requirements, may still be eligible for sale into the MPF program as a seasoned loan pursuant to MPF Traditional Selling Guide Section 14.1 - Conventional Mortgage Loan Seasoning Requirements, if all issues with the loan documentation are cured prior to delivery.

Effective: March 24, 2020

General resources

The MPF Program is pleased to continue providing support to PFIs/Servicers in these difficult times. Please contact the MPF Service Center with any questions or concerns (877-FHLB-MPF).