
Virtual Real Estate Closings: Verification, E-Signature, Remote Notarization, Best Practices and Procedures

TUESDAY, JULY 7, 2020

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

Enza Brandi, Founder, **The Enza Brandi Law Firm**, New York

Cynthia M. (Cyndi) Stovall, Member, **Sherman & Howard**, Denver

Peter J. Wagner, Attorney, **The Law Office of Peter J. Wagner**, Huntington Station, NY

The audio portion of the conference may be accessed via the telephone or by using your computer's speakers. Please refer to the instructions emailed to registrants for additional information. If you have any questions, please contact **Customer Service at 1-800-926-7926 ext. 1.**

REAL ESTATE ADVISORY

Remote Notarization in Colorado

Updated 5.4.2020



Pursuant to Executive Order D 2020 019 issued March 27, 2020, as extended by Executive Order D 2020 030 issued April 6, 2020, and as further extended by Executive Order D 2020 047 issued April 30, 2020 (collectively, the **Executive Order**), Governor Polis temporarily suspended the requirement that an individual whose signature is being notarized appear personally (i.e., in the physical presence of) before a notarial officer, as set forth in C.R.S. § 24-21-506. **The order expires May 30, 2020, unless further extended pursuant to Executive Order.**

The order also authorizes the Secretary of State to authorize notarial officers to perform such remote notarizations and establish related processes and standards. Pursuant to such authorization, on March 30, 2020, the Office of the Secretary of State promulgated a temporary new **Rule 5**—Remote Notarization addition to 8 CCR 1505-11 Notary Program Rules. The Office of the Secretary of State has also promulgated [Notary Public FAQs](#) addressing remote notarization (the **FAQs**).

SCOPE

The authority for remote notarization does *not* include:

1. Any notarial act required by Title 1 of Colorado Revised Statutes (Elections) (*Executive Order Directive A and Rule 5.2.2.A*)
2. Any impact on the rights or duties of parties to existing contracts of insurance or other private contracts that may require or anticipate in-person notarization of documents (nor does anything in the order preclude the parties to any such contract from waiving or modifying any provision thereof) (*Executive Order Directive C*)
3. The performance of a remote notarization for any person outside Colorado or by any notary located outside of Colorado (See also *FAQ Q13*)

The authority *does* apply to a will, as defined under C.R.S. § 15-10-201(59), provided certain transmittal requirements in addition to those otherwise required are satisfied. (See *Transmittal of Record* section below.)



Cyndi Stovall
Member
Denver
303.299.8339
[Email](#)

REQUIREMENTS

1. The notary must be a currently commissioned notary in Colorado and located in Colorado when the notarial act is performed (*Rule 5.2.3*). The notary must have a status of “Active” in the Secretary of State’s online database (*FAQ Q1*).

There is no requirement that the notary, before performing a remote notarial act, notify the Colorado Secretary of State that the notary will be performing remote notarizations, identify the system the notary will use, provide affirmation of compliance with the Remote Notarization Rules, or complete any training or examination beyond what is otherwise required. *Compare the requirements for Electronic Notarization (addressed below) and the latest Colorado legislation on remote notarization, Senate Bill 20-096 addition to C.R.S. § 24-21-514.5(3).*

2. The remote notarization system used must (*Rule 5.2.4*):
 - a. Enable the notary to verify the identity of the remotely located individual and any required witness by satisfactory evidence of identity
 - i. The notary has satisfactory evidence of such identity if:
 - The notary can identify the signatory by means of audio-video communication using a government-issued identification such as a driver’s license, passport, or other identification with a picture and signature of the signatory, in each case in which identification is current or not expired for more than one year as of the date of the notarial act (*Rule 5.2.4.A* and *5.2.5.B.1*); or
 - The notary can identify the signatory by means of personal knowledge (*Rule 5.2.4.A* and *5.2.5.A*); or
 - The notary can identify the signatory by means of the oath or affirmation of a credible witness who personally knows the signatory, is personally known to the notary, or presents a government-issued identification and is in the physical presence of the notary or the signatory (*Rule 5.2.5.B(1)*).
 - ii. There is no requirement for such identification to be supplemented or confirmed by either:
 - The oath or affirmation of a witness (*Compare Senate Bill 20-096 addition to C.R.S. § 24-21-514.5(6)(b)(I)* and *C.R.S. § 24-21-514.5(9)(b)(IV)*); or
 - A “credential analysis” by which a third party affirms the validity of a government-issued ID through the review of public or proprietary data sources. (*Compare Senate Bill 20-096 addition to C.R.S. § 24-21-514.5(1)(a)*, *24-21-514.5(1)(e)(II)*, and *24-21-514.5(1)(a)*).
 - b. Enable the notary to verify the notary, signatory, and any required witnesses are viewing the same record* and that all signatures, changes, and attachments are made in real time, and:

**However, Rule 5.2.8.C (addressed in greater detail below), limits what a notary is to include in the required audio-video recording of the signing and notarization, effectively requiring the notary to use good-faith efforts to exclude from the audio-video recording the contents of the record itself being signed.*

 - i. FAQs further clarify that the notarized act must be witnessed in real time, i.e., the notary and the remotely located individual must be able to “see and hear each other substantially simultaneously and without interruption or disconnection.” A notary cannot notarize a document after watching a previously recorded or taped audio-video of a person signing or acknowledging a document (*FAQ Q6*).

- ii. FAQs also clarify that the document being acknowledged may be in an electronic form or a hard paper copy form when it is signed or acknowledged* (FAQ Q15).

**Distinguish Electronic Notarization, addressed below*

- c. Make an audio-video recording of the interaction so it can be viewed at a later date.
 - i. If the remotely located individual does not want to be recorded, then the notary cannot perform remote notarization (FAQ Q7).
 - ii. Without endorsing any specific application or vendor, the FAQs state:

Some mainstream applications that may be used to perform remote notarizations include the Zoom, Skype, and GoToMeeting applications (FAQ Q3).

- ii. The FAQs also include, without endorsing, a list of vendors that provide remote notarization services (FAQ Q3).
3. The FAQs appear to clarify that an electronic document electronically signed may be notarized remotely in accordance with Rule 5 but may not be electronically notarized* (FAQ Q15).

***Electronic Notarization Distinguished.** Electronic notarization is authorized by C.R.S. § 24-71.3-111. The details of the program are addressed in C.R.S. § 24-21-520 and 8 CCR 1505-11 Notary Program Rules addressing electronic notarization, which:

- Allow only Colorado notaries who are currently commissioned and have been approved as eNotaries by the Secretary of State's Office to perform electronic notarization
- Require, before a notary performs the notary's initial notarial act with respect to an electronic record, notification to the Secretary of State's office that the notary will be performing notarial acts with respect to electronic records and identifying the technology the notary intends to use
- Require the electronic signature of a notary public to contain or be accompanied by a unique document authentication number issued by the Secretary of State, with a different document authentication number being required for each electronic notarization
- Clarify that the signer must appear in the physical presence of the notary to affirm, swear, or acknowledge the document being notarized. See *official comment to C.R.S. § 24-71.3-111*.

See also, Electronic Notary Public FAQs promulgated by the Office of the Secretary of State: <https://www.sos.state.co.us/pubs/notary/eNotary.html>.

4. A notary may refuse to perform a notarial act under Rule 5 if the notary is not satisfied the requirements of the rule are met (Rule 5.2.6).

RECORD

1. A certificate for a notarial act for a remote notarization must indicate the notarial act was performed using audio-video technology and comply with C.R.S. § 24-21-515 (be executed contemporaneously with the performance of the notarial act, signed and dated by the notarial officer, identify the county and state in which the notarial act is performed, contain the title of office of the notarial officer, and indicate the date of expiration of the officer's commission) (Rule 5.2.7 and FAQ Q11).

Distinguish Electronic Notarization, the record for which is also required to include a unique document authentication number issued by the Secretary of State.

Examples of Remote Notary Block

- o Subscribed, sworn to, and acknowledge before me by _____, this ___ day of _____, 2020. The undersigned certifies that the notarial act was performed in compliance with the requirements of Section 24-21-515, C.R.S., and 8 CCR 1505-11 which was adopted by the Office of the Colorado Sec. of State effective March 30, 2020, authorizing remote notarization, and the notarial act was performed using audio-visual technology.
 - o Acknowledged before me by _____, in the State of Colorado, on the ___ day of _____, 2020, who appeared before me by real-time audio-video communication/technology pursuant to the authority of Executive Order D 2020 019 signed by the Honorable Jared Polis, Governor of the State of Colorado, on March 27, 2020, and the Notice of Temporary Adoption adopted by Jena Griswold, Secretary of State of the State of Colorado on March 30, 2020, which Notice of Temporary Adoption shall expire on May 30, 2020, pursuant to the Governor's Executive Order on April 28, 2020.
2. A remote notarization must be recorded in an audio-video recording satisfying the following requirements (*Rule 5.2.8* and *FAQ Q9*):
- a. First disclose to the signatory that there will be an audio-video recording of the notarial act and the details of its intended storage, including where and for how long it will be stored;
 - b. Ensure the signatory consents to both the recording and the storage; and
 - c. Securely store the recording for 10 years in compliance with C.R.S. § 24-21-519 (pertaining to a notary public's journal).
3. The record of the remote notarization must contain (and the notary will make a good-faith effort to include in the audio-video recording *only*) the following (*Rule 5.2.8.C* and *FAQ Q9*):
- a. At the beginning of the recording, a recitation by the notary sufficient to identify the notarial act, including the name of the notary, date and time of the notarial act, a description of the documents to which the notarial act relates, the identity of the signatory, the identity of any person who will act as a credible witness (see Requirements item 2(a)(ii)(2) above and Record item 3(d) below), the method or methods by which the signatory (and credible witness) will be identified by the notary;
 - b. A declaration by the signatory that the signatory's actions before the notary are knowingly and voluntarily made;
 - c. If the signatory for whom the notarial act is being performed is being identified by personal knowledge, an explanation by the notary as to how the notary knows the signatory and for how long;
 - d. If the signatory is identified by a credible witness:
 - If the witness is identified by the notary by personal knowledge, a statement by the notary as to how the notary knows the signatory and for how long, or
 - If the witness is identified through a government-issued identification;
 - e. Any other statements, act, and conduct necessary to perform the notarial act.
- A remote notarization must be recorded in the notary's journal (*Rule 5.3* and *FAQ Q4*).

Transmittal of Record

1. After the notary performs the notarial act (*Rule 5.2.9.A* and *FAQ Q10*):
- a. The signatory must transmit a legible copy of the recording by fax, email, or other electronic means to the notary on the date the notarial act took place.

- b. The notary must notarize the transmitted copy of the document as soon as received and transmit the same back to the signatory.
2. If the record is a will, as defined under C.R.S. § 15-10-201 (59) (Rule 5.2.9.C):
- a. The original signed record must be presented to the notary within 15 calendar days of the date of the remote notarization; and
 - b. Within three calendar days of receiving the signed record, the notary must confirm such record is identical to the record remotely notarized* and, if so, affix the notary's public signature and seal on the original, reflecting the date of the remote notarization.

**Rule 5.2.8.C (addressed in detail above) limits what a notary is to include in the required audio-video recording of the signing and notarization, effectively requiring the notary to use good-faith efforts to exclude from the audio-video recording the contents of the will being signed.*

A will of a remotely located testator is not acknowledged in accordance with C.R.S. § 15-11-502(1)(c) unless it is notarized per all requirements of Rule 5.2.9.C.

©2020 Sherman & Howard L.L.C. has prepared this newsletter to provide general information on recent legal developments that may be of interest. This advisory does not provide legal advice for any specific situation and does not create an attorney-client relationship between any reader and the firm. Click [HERE](#) to receive S&H Advisories and invitations to events.



Lender Letter (LL-2020-03)

Updated: Jun. 11, 2020

May 28, 2020

May 19, 2020

May 5, 2020

Mar. 31, 2020

Mar. 23, 2020

To: All Fannie Mae Single-Family Sellers

Impact of COVID-19 on Originations

We are actively monitoring the spread of COVID-19 (coronavirus) in the United States and understand there are concerns about its potential impact on borrowers, businesses, and loan originations. Our ability to continue to serve our customers is a top priority.

The purpose of this Lender Letter is to address a number of questions and concerns that industry partners have raised to us. We are working closely with Freddie Mac under the guidance of FHFA to offer temporary measures to help ensure lenders have the clarity and flexibility to continue to lend in a prudent and responsible manner.

We are releasing information to our customers as quickly as possible and will update and republish this Lender Letter as new guidance becomes available.

Updates to Lender Letter on Jun. 11, 2020

- [Extension of effective date](#): extending the application dates for these temporary policies to Jul. 31, 2020

Additions to Lender Letter on May 28, 2020

- [Requirements for borrowers using self-employment income to qualify](#): temporarily requiring additional documentation to support the lender's decision that self-employment income meets our requirements

Additions to Lender Letter on May 19, 2020

- [Temporary eligibility requirements for purchase and refinance transactions](#): describing our requirements for a borrower to obtain a new mortgage loan to purchase or refinance a property
- [Additional resources](#): providing links to COVID-19 resources, such as prior selling and servicing lender letters and FAQs

Additions to Lender Letter on May 5, 2020, updated Jun. 11, 2020

- [Extension of effective date](#): extending the application dates for these temporary policies to Jun. 30, 2020
- [Unemployment benefits as qualifying income](#): reminding lenders that unemployment benefits can only be used as qualifying income if it is associated with seasonal employment
- [Furloughed borrowers](#): clarifying that the income of a furloughed borrower is not eligible under our temporary leave income policy
- [Employment validation through DU validation service](#): temporarily suspending representation and warranty relief for employment validation through the DU validation service
- [Sale of loans aged six months or less](#): all loans must be purchased or securitized no more than six months from the first payment date

Additions to Lender Letter on Mar. 31, 2020, updated May 5, 2020, Jun. 11, 2020

- [Age of documentation](#): modifying our age of document requirements from four months to two months for most income and asset documentation **UPDATED May 5, 2020 and Jun. 11, 2020** with new effective date
- [Verification of self-employment](#): requiring lenders to confirm the borrower's business is open and operating within 10 business days of the note date **UPDATED May 5, 2020 and Jun. 11, 2020** with new effective date



- [Market-based assets](#): updating policies for use of stocks, stock options, and mutual funds for down payment, closing cost costs, and reserves **UPDATED May 5, 2020 and Jun. 11, 2020** with new effective date
- [Powers of attorney](#): providing flexibilities for use of a power of attorney **UPDATED May 5, 2020 and Jun. 11, 2020** with new effective date
- [Remote online notarization](#): providing expansion of the use of remote online notarization **UPDATED May 5, 2020** added three additional states
- [Lender quality control requirements](#): allowing post-closing reverifications to occur verbally or electronically, and other flexibility related to the field review of appraisals

Lender Letter content published Mar. 23, 2020, updated May 5, 2020, Jun. 11, 2020

- [Verbal verification of employment](#): offering flexibilities related to the lender's process for obtaining the verbal verification of employment. **UPDATED May 5, 2020** with new effective date and removed the reference to the DU validation service **UPDATED Jun. 11, 2020** with new effective date
- [Continuity of income](#): reminding lenders of the importance of ensuring sustainable homeownership for borrowers in light of recent events
- [Submission of financial statements and reports](#): extending the deadline for submission of financial statements and Form 582 to Apr. 30, 2020
- [Notes, electronic records, and signatures](#): reminding lenders of our existing policies regarding possession of the original promissory note before loan purchase, and electronic signature requirements
- [Title insurance](#): reminding lenders we accept lender's policies of title insurance written on the 2006 ALTA loan title insurance form or a local equivalent, which includes "gap coverage"
- [Business continuity plans](#): reminding sellers and servicers to have and to follow their own business continuity and resiliency plans

Effective: See each section below for the applicable effective date. Note that the *Selling Guide* and Desktop Underwriter® (DU®) messages will not be updated to reflect these temporary policies.

Extension of temporary policies

We are extending the temporary policies in this Lender Letter to loans with application dates on or before Jul. 31, 2020 from Jun. 30, 2020. Each applicable date has been updated in the remainder of this Lender Letter. All other effective dates remain unchanged.

Requirements for borrowers using self-employment income to qualify

Effective: Lenders are encouraged to apply these requirements to existing loans in process; however, they must be applied to loans with application dates on or after Jun. 11, 2020 until further notice.

Income Analysis

Self-employment income is variable in nature and generally subject to changing market and economic conditions. Whether a business is impacted by an adverse event, such as COVID-19, and the extent to which business earnings are impacted can depend on the nature of the business or the demand for products or services offered by the business. Income from a business that has been negatively impacted by changing conditions is not necessarily ineligible for use in qualifying the borrower. However, the lender is required to determine if the borrower's income is stable and has a reasonable expectation of continuance.



Due to the pandemic’s continuing impact on businesses throughout the country, lenders are now required to obtain the following additional documentation to support the decision that the self-employment income meets our 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 two business depository account(s) statements no older than the latest two months represented on the year-to-date profit and loss statement.
 - For example, the business depository account statements can be no older than Apr. and May for a year-to-date profit and loss statement dated through May 31, 2020.
 - The lender must review the two most recent depository account statements to support and/or not conflict with the information presented in the current year-to-date profit and loss statement. Otherwise, the lender 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 current [Age of Documentation](#) requirements below.*

Lenders 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 lender 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 lender may find it necessary to obtain supplemental documentation listed in the examples below.

Assessing the Impact of COVID-19	
Business operations	<ul style="list-style-type: none"> ▪ Have business operations been maintained or modified to support continued business income? <i>For example, review an updated business plan.</i> ▪ Is the business continuing to operate in the current location or an alternate location suitable for business operations? <i>For example, perform an Internet search or verify through a third-party source.</i> ▪ Is there a demand for the product or service currently offered by the business? <i>For example, obtain current business receipts or purchase contracts.</i> ▪ 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? <i>For example, obtain a written explanation from the business owner or confirmation that income is seasonal apart from the event timeline.</i>
Business Income	<p>The lender 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 the <i>Cash Flow Analysis</i> (Form 1084)* for a similar timeframe (such as monthly).</p> <ul style="list-style-type: none"> ▪ Lenders can make standard adjustments to business cash flow (net income on the profit and loss statement) in accordance with B3-3.4-04, Analyzing Profit and Loss Statements when making this determination. ▪ When the lender 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 lender 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



Assessing the Impact of COVID-19	
	<p>confirmed, the income is not eligible for qualifying purposes. See B3-3.1-01, General Income Information for details.</p> <p>Example Historical monthly self-employment income calculated using Form 1084 = \$2,000</p> <p>Current level of stable monthly self-employment income as determined by the lender using details from the year-to-date profit and loss statement and other supplemental documentation = \$1,000</p> <p>The impact of the COVID 19 pandemic on current business income results in a 50% decline from historical levels. See Business Income Calculation Adjustment below for next steps.</p> <p>*Form 1084 or any other type of cash flow analysis form that applies the same principles.</p>
Business Stability	<ul style="list-style-type: none"> ▪ 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? <p>A current balance sheet may be used to support the lender’s determination of business stability, in conjunction with the profit loss statement.</p>

Business Income Calculation Adjustment

When the lender 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 lender 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 lender (see Business Income above).
- more than the historical income calculated using Form 1084, the lender 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 lender.

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. Refer to [B3-4-2-02](#), Depository Accounts for details.

Temporary eligibility requirements for purchase and refinance transactions

Effective: Lenders may immediately apply these policies to loans in process and must apply them to loans with application dates on or after Jun. 2, 2020. These policies will be effective until further notice.



In response to lender feedback, we are addressing eligibility requirements for borrowers impacted by the COVID-19 pandemic. With this update we are providing eligibility guidelines for purchase and refinance transactions.

Lenders must continue to review the borrower’s credit report to determine the status of all mortgage loans. In addition to reviewing the credit report, the lender must also apply due diligence for each mortgage loan on which the 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 the borrower has made all mortgage payments due in the month prior to the note date of the new loan transaction by no later than the last business day of that month. Examples of acceptable additional due diligence methods to document the loan file include:

- a loan payment history from the servicer or third-party verification service,
- a payoff statement (for mortgages being refinanced),
- the latest mortgage account statement from the borrower, and
- a verification of mortgage.

A borrower who is not current and has missed payments on any mortgage loan is eligible for a new mortgage loan if those missed payments were resolved in accordance with the requirements in the table below.

Resolution Method	Eligibility
Reinstatement	If the borrower resolved missed payments through a reinstatement, they are eligible for a new mortgage loan. The lender must document the source of funds in accordance with eligible sources of funds in the <i>Selling Guide</i> , if the reinstatement was completed after the application date of the new transaction. Proceeds from a refinance may not be used to reinstate any mortgage loan.
Loss Mitigation Solution	<p>If outstanding payments will be or have been resolved through a loss mitigation solution, the borrower is eligible for a new mortgage loan if they have made at least three timely payments as of the note date of the new transaction as follows:</p> <ul style="list-style-type: none"> ▪ For a repayment plan, the borrower must have made either three payments under the repayment plan or completed the repayment plan, whichever occurs first. Note that there is no requirement that the repayment plan be completed. ▪ For a payment deferral, the borrower must have made three consecutive payments following the effective date of the payment deferral agreement. ▪ For a modification, the borrower must have completed the three-month trial payment period. ▪ For any other loss mitigation solution not listed above, the borrower must have successfully completed the program, or made three consecutive full payments in accordance with the program. <p>Verification that the borrower has made the required three timely payments may include:</p> <ul style="list-style-type: none"> ▪ a loan payment history from the servicer or third-party verification service, ▪ the latest mortgage account statement from the borrower, and ▪ a verification of mortgage. <p>If these requirements are met on an existing mortgage loan being refinanced, the new loan amount can include the full amount required to satisfy the existing mortgage.</p>

We are not considering payments missed during the time of a COVID-19-related forbearance that have been resolved to be historical delinquencies for purposes of our excessive mortgage delinquency policy as outlined in [B3-5.3-03](#), Previous Mortgage



Payment History. This flexibility does not apply to high LTV refinance loans, which must continue to meet the payment history requirements in [B5-7-02](#), High LTV Refinance Underwriting, Documentation, and Collateral Requirements for the New Loan.

The following content was published May 5, 2020 UPDATED Jun. 11, 2020

Extension of temporary policies

We are extending the temporary policies in this Lender Letter to loans with application dates on or before Jun. 30, 2020 from May 17, 2020. Each applicable date has been updated in the remainder of this Lender Letter. All other effective dates remain unchanged.

Unemployment benefits as qualifying income

We are reminding lenders of our current policy in the *Selling Guide* pertaining to the use of unemployment benefits. Per [B3-3.1-09](#), Other Sources of Income, unemployment benefits cannot be used to qualify a borrower unless they are clearly associated with seasonal employment that is reported on the borrower's signed federal income tax returns. We recognize that 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 who are not established seasonal workers.

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 under our Temporary Leave Income policy in [B3-3-1-09](#), Other Sources of Income.

Employment validation by the DU validation service

Effective: For new Desktop Underwriter® (DU®) loan casefiles created on or after May 4, 2020 through Jul. 31, 2020.

To support sustainable homeownership while ensuring prudent risk management during these times of unprecedented unemployment, we are temporarily suspending representation and warranty relief for employment validation within the Desktop Underwriter® (DU®) validation service. Lenders must perform a verbal verification of employment in accordance with [B3-3.1-07](#), Verbal Verification of Employment or follow the temporary policies outlined below.

While representation and warranty relief for employment validation is temporarily suspended, lenders will still be able to take advantage of the income and asset validation services with representation and warranty relief. Income validation for a borrower remains dependent on the borrower being employed. Lenders should continue to verify the employment of the borrower as close to closing as possible. When income or assets are validated, lenders should continue to follow the close-by dates and instructions issued in DU messages. If the lender discovers that the borrower is no longer employed, the associated income can no longer be considered in the qualification of the borrower, and the employment and associated income information should be removed from the Form 1003 and the casefile should be resubmitted to DU.

Refer to the DU Validation Service Release Notes published on [May 1, 2020](#) and [Apr. 9, 2020](#) for additional information.

Sale of loans aged six months or less

Effective: Immediately and until further notice



The national response to COVID-19 and the related economic impacts have resulted in uncertainty about risks associated with loans that have not been sold to us yet. Therefore, we are temporarily suspending bulk transactions and requiring that loans sold on a flow basis be no more than six months old to be eligible for sale to us. The loan's age will be calculated based on the following:

- Whole loans: from the first payment date to the date the loan data is submitted to Loan Delivery
 - Example: If loan data is submitted May 2020, the first payment date can be no earlier than Nov. 1, 2019
- MBS loans: from the first payment date to the pool issue date
 - Example: If the pool issue date is May 1, 2020 the first payment date can be no earlier than Nov. 1, 2019

The following content was published Mar. 31, 2020, UPDATED May 5, 2020, Jun. 11, 2020

Age of documentation

Effective: Lenders are encouraged to apply these updates to existing loans in process; however, they must be applied to loans with application dates on or after Apr. 14, 2020 through Jul. 31, 2020.

In order to ensure that the most up-to-date information is being considered to support the borrower's ability to repay, we are updating our age of documentation requirements for all loans (existing and new construction) as follows:

- We are modifying age of document requirements 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 lender must obtain the most recently issued quarterly statement.
- When the lender receives employment and income verification directly from a third-party employment verification vendor, we are now requiring that the information in the vendor's database be no more than 60 days old as of the note date.
- There are no changes 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 lender can continue to apply standard age of document requirements as stated in the *Selling Guide*.
- Due to the federal income tax filing extension granted through Jul. 15, 2020, we are eliminating the following documentation requirements. These normally apply for income types that require copies of federal income tax returns when the borrower files an extension with the IRS:
 - 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 [B1-1-03](#), Allowable Age of Credit Documents and Federal Income Tax Returns, continue to apply.

Conversion of construction-to-permanent financing – single-closing transactions

The *Selling Guide* currently allows certain single-closing construction-to-permanent transactions with credit documents dated more than 4 months but no more than 18 months at the time of conversion to permanent financing when certain conditions are met. (See [B5-3.1-02](#), Conversion of Construction-to-Permanent Financing: Single-Closing Transactions). Among those conditions is a requirement that the credit documents are dated within 120 days of the original closing.

Consistent with the age of credit documentation requirements in this Lender Letter, this requirement is being updated to reflect that the income and asset documentation must be dated within 60 days of the original closing. All other conditions related to the age of credit documents contained in [B5-3.1-02](#) continue to apply.



Verification of self-employment

Effective: Lenders are encouraged to apply these updates to existing loans in process; however, they must be applied to loans with application dates on or after Apr. 14, 2020 through Jul. 31, 2020.

When a borrower is using self-employment income to qualify, the lender 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, lenders must take additional steps to confirm that the borrower's business is open and operating. The lender must confirm this within 10 business days of the note date (or after closing but prior to delivery).

Below are examples of methods the lender 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 lender verifies self-employment);
- evidence of current business receipts within 10 days of the note date (payment for services performed);
- lender certification the business is open and operating (lender 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 [B3-3.1-07](#), Verbal Verification of Employment for our existing requirements.

Market-based assets

Effective: Lenders are encouraged to apply these updates to existing loans in process; however, they must be applied to loans with application dates on or after Apr. 14, 2020 through Jul. 31, 2020.

Stocks, stock options, and mutual funds

In light of current market volatility, we are 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 [B3-4.3-01](#), Stocks, Stock Options, Bonds and Mutual Funds for our existing requirements.

Powers of attorney

Effective: Unless otherwise noted in this section below, these flexibilities are effective immediately for all loans in process and remain in place for loans with application dates on or before Jul. 31, 2020.

Selling Guide, [B8-5-05](#), Requirements for Use of a Power of Attorney, contains our requirements for powers of attorney. For loans with application dates on or before Jul. 31, 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 *Selling 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. This includes all the related current requirements applicable to limited cash-out refinance transactions involving these persons in the *Selling Guide* (that is, excluding lender employees, limiting by loan amount and property location, requiring a recorded Internet session after the borrower has received proposed loan documents, and mandating retention of the recording).



- 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 Apr. 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 lender 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 borrowers 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 *Selling Guide* or this Lender Letter, 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 *Selling Guide* or under the standards in this Lender Letter, the provisions of [B1-1-01](#), Application Package Documentation requiring the borrower's personal signature of the initial Form 1003 continue to apply 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 *Selling Guide*. 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 lender's title insurance policy, and
 - such title insurance company is affiliated with the lender.
- If a power of attorney is required to be notarized, it may be remotely notarized in accordance with [A2-5.1-03](#), Electronic Records, Signatures, and Transactions (as revised by this Lender Letter) with the additional flexibility that it may be remotely notarized in all jurisdictions, even if not expressly permitted by the Guide, 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 permitted by [A2-5.1-03](#) (as revised by the table below).
- The limitations in [B8-5-05](#) requiring at least one borrower signature of the note and security instrument are suspended.
- Under the [Guide to Delivering eMortgages to Fannie Mae](#), powers of attorney are not permitted to be used in connection with loans with electronic notes ("eNotes"). Fannie Mae revised the eMortgage Guide effective Apr. 20, 2020 to permit eNotes to be delivered in transactions in which a printed or electronic power of attorney is used on the same conditions as those applying to paper notes, except that the power of attorney must accompany the eNote through MERS® eDelivery. In anticipation of the change in the eMortgage Guide, lenders that are authorized to deliver eNotes may begin permitting the use of powers of attorney consistent with [B8-5-05](#) and this Lender Letter immediately, provided that the eNote and related power of attorney may not be delivered to Fannie Mae through MERS eDelivery or submitted to Loan Delivery until after Apr. 20, 2020.

The following existing policies remain in effect for loans using powers of attorney authorized by the *Selling Guide* as revised by this Lender Letter:

- Lenders may not deliver loans to us that have unacceptable title impediments. Accordingly, the lender 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 [B7-2-05](#), Title Exceptions and Impediments.
- Lenders must comply with all federal, state and local laws in accordance with [A3-2-01](#), Compliance with Laws. In addition, for Texas Section 50(a)(6) loans, lenders may only use a power of attorney to execute the note or security



instrument if the power of attorney is signed at a location at which a Texas Section 50(a)(6) loan may be closed and in conformity with applicable requirements.

- The current and revised provisions of [B8-5-05](#) are always subject to the lender'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 lender document its determination in the loan file.

Remote online notarization **UPDATED May 5, 2020**

Effective: These policies for remote online notarization are effective immediately for all loans and are intended to remain in effect until further notice (that is, these are not temporary flexibilities). We will incorporate these policies into the *Selling Guide* in a future update.

Due to disruption related to COVID-19, many lenders are reporting difficulty in obtaining in person notarizations and have requested increased flexibility to obtain remote notarizations (RON) to be used with eMortgage transactions as well as ink-signed transactions. *Selling Guide*, [A2-5.1-03](#), Electronic Records, Signatures, and Transactions describes our current policies with respect to using RON and with this Lender Letter will allow the following flexibilities.

Lenders 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 lender 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 lender makes all selling representations and warranties per the *Selling Guide*, including representations and warranties related to:
 - clear title and first lien enforceability;
 - compliance with laws and responsible lending practices; and



- requirements regarding title insurance, including those in [B7-2-04](#), Special Title Insurance Coverage Considerations. If the notarized document is a security instrument or an amendment to a security instrument, the remote notarization must comply with the title requirements in [B7-2-04](#) and the title insurance company may not take any exception for the remotely notarized loan.
- Lenders may not require a borrower to use remote notarization and must have other notary options for borrowers available.

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

If, after the publishing of this Lender Letter, a state not included in the above table expressly adopts a law that expressly permit 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.

Lender quality control requirements

Effective: These temporary flexibilities 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 Jun. 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. We recognize the unique challenges in the market today related to COVID-19 and will allow temporary post-closing flexibilities related to reverifications and appraisal field reviews.

NOTE: *Recognizing the unprecedented amount of stress in the market from COVID-19 disruptions and significant volume pressure, we encourage lenders to only adopt the QC flexibilities they feel are necessary.*

Reverifications

Any income, employment, and asset reverifications (required by [D1-3-02](#), Lender Post-Closing Quality Control Review of Approval Conditions, Underwriting Decisions, and Documentation) that are typically mailed can be completed verbally or electronically. If a verbal or electronic reverification cannot be completed, the lender can complete the file review without the reverification. However, to take advantage of this flexibility, the lender 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 flexibilities.

As reminders:

- The reporting requirements of [D1-3-06](#), Lender Post-Closing Quality Control Reporting, Record Retention, and Audit, continue to apply with respect to this special discretionary sample(s).
- Lenders 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 validation service and the lender has complied with all DU messages.



Field review of appraisals

In lieu of obtaining field reviews on 10% of its random sample (as required by [D1-3-04](#), Lender Post-Closing Quality Control Review of Appraisers and Appraisals) a lender may leverage Collateral Underwriter® and other 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 lender may obtain a field review to determine whether the property value can be supported. If a field review of the property is not possible then follow self-report procedures in [D1-3-06](#), Lender Post-Closing Quality Control Reporting, Record Retention, and Audit.
- As a reminder, a desk review by the lender's QC staff is still required on the remaining 90% sample.

Prefunding QC reviews

Our prefunding review requirements in [D1-2-01](#), Lender Prefunding Quality Control Review Process, already provide a great deal of flexibility to lenders 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 lender 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.

The following content was published Mar. 23, 2020, UPDATED May 5, 2020, Jun. 11, 2020

Verbal verification of employment **UPDATED May 5, 2020**

Effective: These temporary flexibilities are effective immediately for all loans in process and remain in place for loans with application dates on or before Jul. 31, 2020.

Many lenders are reporting difficulty in obtaining the verbal verification of employment (VOE) due to disruption to operations of the borrower's employer. We expect lenders to attempt to obtain the verbal VOE in accordance with our existing requirements guidance. However, we will allow the following flexibilities:

- **Written VOE:** The *Selling Guide* permits the lender to obtain a written VOE confirming the borrower's current employment status within the same timeframe as the verbal VOE requirements. An email directly from the employer's work email address that identifies the name and title of the verifier and the borrower's name and current employment status may be used in lieu of a verbal VOE. In addition, the lender may obtain the VOE after loan closing, up to the time of loan delivery (though we strongly encourage getting the verbal VOE before the note date).
- **Paystub:** The lender may obtain a year-to-date paystub from the pay period that immediately precedes the note date.
- **Bank statements:** The lender can provide bank statements (or other alternative documentation as permitted by [B3-4.2-01](#), Verification of Deposits and Assets) evidencing the payroll deposit from the pay period that immediately precedes the note date.

Continuity of income

Given the current economic climate associated with COVID-19 and its impact on employment and income, we recommend that lenders practice additional due diligence to ensure the most recent information is obtained. Lenders 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. During these uncertain times, it is our goal to partner with you to help ensure sustainable homeownership for the borrower.

As an example of additional due diligence for a self-employed borrower, lenders are encouraged to attempt to verify that the borrower's business is operational closer to the note date rather than rely on our current Guide requirements (e.g., within 15 days instead of 120 days).



Submission of financial statements and reports

Per [A4-2-01](#), Financial Statements and Reports, sellers/servicers must submit financial statements and the *Lender Record Information* (Form 582) within 90 days after the end of their fiscal year. While we encourage submission of this information in a timely manner and by the Mar. 31, 2020 deadline (for those with a Dec. 31 fiscal-year end), we are extending the due date to Apr. 30, 2020.

Notes, electronic records, and signatures

As a reminder, unless originated as an electronic note in accordance with [A2-5.1-03](#), Electronic Records, Signatures, and Transactions, we require that the original promissory note be in the possession of the document custodian when it certifies the loan for our purchase. See [A3-3-05](#), Custody of Mortgage Documents and [E-2-01](#), Required Custodial Documents; and the [Requirements for Document Custodians](#), Sections 2.2 and 8.1 for additional detail. We require the original note to be in the possession of the document custodian before purchase of the loan to minimize transit risk and to protect our legal rights in the loan under applicable law.

In addition, [A2-5.1-03](#) describes all of our other policies related to electronic records, signatures, and notarizations. Note that electronic signatures are permitted under the terms of the *Selling Guide* but promissory notes may not be signed electronically unless the promissory note is an electronic note sold in accordance with [A2-5.1-03](#). Lenders that are approved to deliver eMortgages may refer to the [Guide to Delivering eMortgages to Fannie Mae](#) for additional information.

Title insurance

We understand that recording offices are closed in certain areas due to public health directives associated with COVID-19 and that such closures present challenges for lenders in complying with title requirements in *Selling Guide* Chapter B7-2. We are working to address these challenges, but in the meantime, we want to remind lenders that we accept 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. We will accept this as long as there is no exception for this coverage under Schedule B of the policy.

Business continuity plans

Consistent with the requirements in Business Continuity and Disaster Recovery in [A4-1-01](#), Maintaining Seller/Servicer Eligibility, we expect sellers and servicers to follow their own business continuity and resiliency plans. The plans must ensure the ability to regain critical business operations in the event of a disruption or disaster.

In addition, we have been in communication with the document custodians and have verified their business continuity plans are in place. Fannie Mae and impacted customers will be notified if changes to business operations at a document custodian become necessary.

As the situation evolves, we want to reassure you that, as we undertake our own corporate precautionary measures, we are open for business and continue to fulfill our mission. We have business continuity plans in place to make sure you continue to receive the service and support you need during these extraordinary times. For additional information, refer to our [website](#).

Additional resources ADDED May 19, 2020

As a reminder, we have published other Lender Letters and helpful information regarding policies related to COVID-19.

- [LL-2020-04](#), Impact of COVID-19 on Appraisals
- [LL-2020-02](#), Impact of COVID-19 on Servicing
- [LL-2020-06](#), Selling Loans in Forbearance Due to COVID-19
- [LL-2020-07](#), COVID-19 Payment Deferral
- [COVID-19 Frequently Asked Questions](#) (Servicing)



- [COVID-19 Frequently Asked Questions \(Selling\)](#)
- [Ask Poli Servicing](#)
- [Ask Poli Selling](#)

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



Bulletin 2020-8

Selling Guidance Related to COVID-19

Issued 03/31/2020

TO: Freddie Mac Sellers

Subject: Selling Guidance related to COVID-19

We continue to work closely with Fannie Mae under the guidance of the FHFA to address the ongoing economic implications and uncertainty related to the coronavirus disease (COVID-19) pandemic and its impacts on Borrowers and the Mortgage origination process.

This Bulletin provides:

- Temporary requirements related to [credit underwriting](#)
- Temporary [appraisal flexibilities](#) for new construction properties
- Information related to [CHOICERenovationSM Mortgages](#)
- Temporary flexibilities for [GreenCHOICE MortgagesSM](#)
- Temporary guidance related to acceptable uses of a [power of attorney](#) for refinance transactions
- Guidance related to acceptable uses of [Remote Online Notarizations](#)
- Temporary guidance on the use of [e-mail signatures](#) in transactions with Freddie Mac
- A reminder on the use of "wet" [signatures on Notes](#)
- Temporary changes to [Seller's in-house quality control](#) requirements

We are also reminding Sellers of [additional resources](#), including our [Selling FAQs](#) [↗](#) related to COVID-19, which we continue to update.

CREDIT UNDERWRITING

The temporary credit underwriting requirements below are effective for Mortgages with Application Received Dates on or after April 14, 2020, and remain in place for Mortgages with Application Received Dates on or before May 17, 2020; however, Sellers are encouraged to apply these updates to existing loans in process.

Age of income and assets documentation

We are implementing the following temporary requirements for age of income and assets documentation.

All income and asset documentation must be dated no more than 60 days prior to the Note Date, except as follows:

- If an asset account is reported on a quarterly basis, the Seller must obtain the most recently issued quarterly statement
- For electronic income verifications obtained from third-party verification service providers, the information from the electronic data base reflected on the third-party verification must now be dated no more than 60 days prior to the Note Date
- Our standard Guide requirements for age of documentation continue to apply to the following income types:
 - Military income documented on Leave and Earnings Statements
 - Retirement income
 - Survivor and dependent benefit income
 - Long-term disability income
 - Social Security Supplemental Security Income (SSI)
 - Public assistance income
 - Homeownership Voucher Program payments
 - Foster-care income
 - Trust income (fixed)
 - Royalty payments
 - Mortgage Credit Certificates (MCC)

Self-employed Borrowers: Verification of the current existence of the business – business open and operating

Currently, when a Borrower is using self-employment income to qualify, the Seller must verify the existence of the Borrower's business no more than 120 days prior to the Note Date. Due to the impact the COVID-19 pandemic and the various social distancing measures implemented by different jurisdictions are having on many businesses across the country, Sellers must now take additional steps to confirm that the Borrower's business is open and operating within 10 Business Days prior to the Note Date.

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

- Evidence of current work (e.g., executed contracts or signed invoices that indicate the business is operating on the day the Seller verifies self-employment)
- Evidence of current business receipts within 10 Business Days of the Note Date (e.g., payment for services performed)
- The Seller certification the business is open and operating (e.g., the Seller confirmed through a phone call or other means)
- Business website demonstrating activity supporting current business operations (e.g., timely appointments for estimates or service can be scheduled)

Stocks, stock options and mutual funds


Due to the continuing market volatility of certain asset types, we are implementing the following temporary requirements applicable to accounts with stocks, stock options and mutual funds:

- Evidence of liquidation, including Borrower receipt of funds, is required when using any funds from these accounts for Down Payment and/or Closing Cost
- The Seller must use no more than 70% of the balance in the accounts in order to meet the reserves requirements in [Guide Section 5501.2](#)

PROPERTY VALUATIONS – APPRAISAL FLEXIBILITIES FOR NEW CONSTRUCTION PROPERTIES (PURCHASE TRANSACTIONS)

These temporary flexibilities are effective immediately for all Mortgages in process and remain in place for Mortgages with Application Received Dates on or before May 17, 2020.

For new construction properties, where the appraisal was completed "subject to completion per plans and specifications," including properties that were fully completed after the effective date of the appraisal, and an interior and exterior inspection appraisal cannot be completed, Freddie Mac will permit a desktop appraisal on the forms identified in the following table:

Property type	Acceptable appraisal form
1-unit property, including a unit in a Planned Unit Development (PUD) or a Detached Condominium Unit	Guide Form 70, <i>Uniform Residential Appraisal Report</i>
Condominium Unit	Form 465, <i>Individual Condominium Unit Appraisal Report</i>
Cooperative Unit	Fannie Mae Form 2090, <i>Individual Cooperative Interest Appraisal Report</i> 
2- to 4-unit property	Form 72, <i>Small Residential Income Property Appraisal Report</i>
Manufactured Home	Form 70B, <i>Manufactured Home Appraisal Report</i>

To accommodate the desktop appraisal using the existing Freddie Mac forms, the revised scope of work, statements of assumptions and limiting conditions provided as [Attachment A to Bulletin 2020-5](#) must accompany the form. Additionally, as stated in [Bulletin 2020-5](#), the appraiser must identify that a desktop appraisal was performed by populating the Map Reference field on the appraisal with "desktop."

Documentation requirements

If construction of the property has not yet begun or is partially completed, and as a result the appraisal report will be completed "subject to completion per plans and specifications," the Seller must provide the appraiser with, or ensure that the builder has provided the appraiser with the following:

- Plans and specifications
- Survey and/or plot plan
- Current photos of the subject property
 - If construction has not yet begun a photograph of the site and street scene (i.e., a photograph of the street view in both directions) are required
 - If construction is partially complete, the Seller must provide, or ensure that the builder has provided, the appraiser with all of the following photographs:
 - A front view of the subject property
 - A rear view of the subject property
 - A street scene (i.e., a photograph of the street view in both directions)
 - The following interior photos are required when construction is at a stage in which they are available
 - The kitchen of the subject property
 - All bathrooms of the subject property
 - The main living area of the subject property
 - Basement, including all finished rooms
- Fully executed sales contract, including any addenda

If the property is fully completed, and as a result the appraisal report will be completed "as is," the Seller must provide the appraiser with, or ensure that the builder has provided the appraiser with the following:

- Plans and specifications
- Survey and/or plot plan
- Current photos of the subject property, including:
 - A front view of the subject property
 - A rear view of the subject property
 - A street scene (i.e., a photograph of the street view in both directions)
 - The kitchen of the subject property
 - All bathrooms of the subject property
 - The main living area of the subject property
 - Basement, including all finished rooms
- Fully executed sales contract including any addenda

Builder certification

The Seller must obtain a builder signed certification, which is provided as Attachment A to this Bulletin (see Download dropdown above), Builder/Contractor Certification, attesting that the information provided is true and correct. This certification must be included in the Mortgage file.

Completion reports for new construction properties

For new construction properties where the appraisal report was completed "subject to completion per plans and specifications," if the Seller is unable to obtain a completion report on Form 442, Appraisal Update and/or Completion Report, as a result of COVID-19 related issues, Freddie Mac will accept the warranty of completion form, which is provided as Attachment B to this Bulletin, Completion of Construction Certification.

CHOICERENOVATIONSM MORTGAGES

In the event a Seller has determined the construction cannot be completed in the required time frame due to COVID-19 concerns or a completion report cannot be obtained, the Seller may e-mail Freddie Mac at CHOICERenovation@freddiemac.com to discuss an extension.

Sellers are reminded that CHOICERenovationSM Mortgages require an interior and exterior inspection appraisal and a completion report on [Form 442](#). The Seller may not use the appraisal flexibilities provided in [Bulletin 2020-5](#) or in this Bulletin with CHOICERenovation Mortgages.

FLEXIBILITIES FOR GREENCHOICE MORTGAGESSM

These temporary flexibilities are effective immediately for all Mortgages in process and remain in place for Mortgages with Application Received Dates on or before May 17, 2020.

In connection with GREENChoice MortgagesSM, Freddie Mac will permit the following flexibilities provided in [Bulletin 2020-5](#):

In lieu of [Form 442](#), Freddie Mac will permit a signed letter from the Borrower confirming that the work was completed. Sellers must also provide further evidence of completion which may include photographs of the completed work, paid invoices indicating completion, occupancy permits, or other substantially similar documentation. All completion documentation must be retained in the Mortgage file.

POWERS OF ATTORNEY

Effective immediately for Application Received Dates on or before May 17, 2020

[Section 6301.4](#) currently permits use of a power of attorney (POA) to execute the Initial Loan Documents and Closing Documents on the Borrower's behalf when there is a hardship or emergency. With this Bulletin Freddie Mac confirms that the COVID-19 pandemic constitutes an emergency for purposes of [Section 6301.4](#). Sellers may allow use of a POA to close a Mortgage or eMortgage, except for cash-out refinance Mortgages and Texas Equity Section 50(a)(6) Mortgages, in accordance with the temporary flexibilities listed in the following chart:

Previous Guide requirement (prior to this Bulletin)	Temporary flexibilities related to Powers of Attorney	
POA may be used to execute Initial Loan Documents and Closing Documents	If the Borrower is unable to sign documents personally or by electronic signature (including by using the mail or delivery service) a POA may be used to execute any of the Initial Loan Documents and Closing Documents related to the origination of the Mortgage, including the initial Form 65 , except that the Borrower must personally sign the initial Form 65 (including by means of an Electronic Signature) if at all possible. If an ink or electronic signature is not possible, then signature by an attorney-in-fact is permissible.	
Only a person who has a familial, personal or fiduciary relationship with the Borrower may be the attorney-in-fact for the Borrower in a POA	<p>In addition to those persons permitted by Section 6301.4 to be the attorney-in-fact, the following are also allowed:</p> <ul style="list-style-type: none"> • An individual employed by the title insurer underwriting the title insurance policy for the Mortgage; or • An individual employed by the title agency issuing the title insurance policy for the Mortgage and closing the transaction but only if the title insurer has issued a closing protection letter relating to the transaction (or similar contractual indemnity) for such policy issuing agent <p>Neither the property seller of the property in a purchase transaction nor an employee of the originating lender is eligible to become an attorney-in-fact under a POA unless he or she otherwise meets an eligibility requirement herein.</p>	
	No cash-out refinance Mortgages	Purchase transaction Mortgages
POA must be notarized	POA does not have to be notarized unless required by applicable law, e.g., to record it with the Security Instrument. If a POA must be notarized, it may be remotely notarized in all jurisdictions, even if not expressly permitted by this Bulletin, as long as the power of attorney is not required to be recorded.	POA must be notarized.

Discussion with Borrower not needed	Discussion with Borrower not needed.	<p>For Mortgages with Note Dates on and after April 7, 2020:</p> <p>After the Closing Disclosure has been delivered to the Borrower but prior to closing, an employee of the originating lender or settlement agent must explain and discuss the terms of the loan and use of the POA with the Borrower to confirm that the 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 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.</p>
<p>However, whenever the attorney-in-fact under the POA is an individual employed by the title insurer or the title agent, then the discussion described above is always required, regardless of loan type.</p>		

These temporary requirements **do not** apply to cash-out refinance Mortgages and Texas Equity Section 50(a)(6) Mortgages.

REMOTE ONLINE NOTARIZATION

Effective immediately, [Section 1401.16](#) provides that a Seller may sell Mortgages to Freddie Mac in which Electronic Notarization is used to notarize Electronic Security Instrument(s), other Electronic closing documents ("Electronic Closing Documents") and/or assignments and other post-closing documents ("Post-Closing Documents"). As of the effective date of this Bulletin, such Electronic notarization otherwise meeting the requirements of this section may involve a remote process ("Remote Online Notarization") in the States listed in Attachment C to this Bulletin, *Permitted States for Remote Online Notarization* (see Download dropdown above), provided that the system used for the remote notarization meets 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

In addition, Mortgages closed using the Remote Online Notarization process must meet the following requirements:

- a. The Mortgages must not be Texas Equity Section 50(a)(6) Mortgages;
- b. Each notary public must be located in a State which authorizes licensed notaries to engage in Remote Online Notarization and must be licensed to engage in Remote Online Notarization. If the Borrower and the Mortgaged Premises are located in a State different from the State in which the notary public is licensed and located, the State law in the State where the notary public is licensed and located must authorize the notary public to engage in such interstate Remote Online Notarization transactions;
- c. In connection with each Mortgage, the Seller must obtain a title insurance policy that meets the requirements of the Guide and does not make or take any exceptions to the fact that the Closing Documents and/or Post-Closing Documents have been remotely, electronically notarized by a notary public;
- d. The signers' Electronic Signatures are: (i) attached to or logically associated with the Closing Documents and/or Post-Closing Documents, as applicable and (ii) remotely, electronically notarized using a system meeting the minimum technical standards listed above in this section;
- e. The Seller must record the electronically signed and remotely, electronically notarized Closing Documents and/or Post-Closing Documents in the applicable public land records recorder's office, in compliance with the requirements of the Guide;
- f. The Seller must maintain the recording of the notarial ceremony for the life of the loan
- g. If Borrowers request other notary options that are permitted within a State where the Borrower and the Mortgaged Premises are located, the Seller must not require Remote Online Notarization
- h. The Seller represents and warrants to, and covenants and agrees with, Freddie Mac that the Seller has confirmed, that all documents that are electronically created, executed, notarized and recorded:

- Comply with all applicable laws, regulations and rules of each State that permits Remote Online Notarization and the State in which the Mortgaged Premises is located;
 - Comply with the UETA and/or E-SIGN, as applicable;
 - Are valid, effective and enforceable in accordance with the terms therein;
 - Are valid first liens on the Mortgaged Premises, as required by the Guide; and
 - Are recordable in the public land records of the State in which the Mortgaged Premises is located
- i. For each Mortgage, the Seller must deliver ULDD Data Point, *Investor Feature Identifier*, "J22" indicating the Mortgage was closed using a remote online notary process
- j. The Seller must deliver the recorded document with the recording information thereon to the Document Custodian or Designated Custodian, in compliance with the requirements of the Guide
- k. The Seller must promptly advise Freddie Mac of any adverse events that arise (actual or threatened legal action(s), governmental official statements, attorneys general opinions or announcements, enacted or filed legislation, State or federal court decisions) of which Seller becomes aware in the normal course of business which may have an adverse effect on interstate Remote Online Notarization, as contemplated in this section;
- l. In the event the Seller wishes to include the seller of the Mortgaged Premises in the Electronic Closings process, the Seller must comply with the following:
- Both the Borrower and the seller of the Mortgaged Premises must give their individual, specific and express Electronic consent to an Electronic warranty deed and other purchase and sale documents;
 - The title insurer must insure the validity, enforceability and effectiveness of the Electronic warranty deed;
 - The use of Electronic warranty deeds and other purchase and sale documents must be permitted under the law of the State in which the Mortgaged Premises is located;
 - The Electronic warranty deed must be electronically recorded in the local recorder's office in the State in which the Mortgaged Premises is located;
 - Long-term storage of the electronically recorded Electronic warranty deeds must be approved by the title insurer, Borrower and seller of the Mortgaged Premises; and
 - All such Electronic warranty deeds and other closing documents must comply with E-SIGN and/or the applicable UETA and all other applicable laws

If, after the effective date of this Bulletin, a State not listed on Attachment C to this Bulletin expressly adopts a law that expressly permits the use of Remote Online Notarization or expressly accepts (either through State law or through the application of an express federal law) Remote Online Notarizations performed out-of-state in accordance with the laws of the State in which the notarial act is performed, Remote Online Notarized loan documents meeting the requirements above will be permitted. Freddie Mac may change the list of States in Attachment C to this Bulletin (see Download dropdown above) based upon subsequent legal developments.

TEMPORARY USE OF E-MAIL TO EFFECT ELECTRONIC SIGNATURES IN TRANSACTIONS WITH FREDDIE MAC

Given the rapid upsurge in remote working arrangements, in response to requests from Seller/Service providers that have not yet implemented electronic signing platforms, we are implementing a temporary solution that involves signing certain contracts and amendments between Freddie Mac and a Seller/Service provider by means of an e-mail exchange. For more information on how to leverage this interim accommodation, contact your Freddie Mac representative or call the Customer Support Contact Center at 800-FREDDIE.

REMINDER: BORROWER SIGNATURE ON THE NOTE

Sellers are reminded that only a "wet" signature is permitted on a Note related to a typical closing. Except for eMortgage transactions conducted in accordance with [Chapter 1402](#), a Note cannot be executed using an Electronic Signature.

TEMPORARY FLEXIBILITIES REGARDING SELLER'S POST-FUNDING QUALITY CONTROL REQUIREMENTS

Freddie Mac recognizes the unique challenges in the market today related to COVID-19 and will allow temporary flexibilities with respect to the Seller's post-funding quality control reviews ("QC Flexibilities") in the following areas, as set forth more fully below:

- Reverifications typically mailed
- Reverifications of property value

Because quality control processes are especially important in times of significant stress, we encourage Sellers to adopt the QC Flexibilities only as they feel necessary.

Effective Term: The QC Flexibilities announced in this Bulletin are effective immediately for all Mortgages currently in the process of a post-closing Seller in-house quality control review and will remain in place for all Mortgages selected through June 2020 for post-closing Seller in-house quality control reviews.

Reverifications typically mailed

Reverifications required in accordance with [Section 3402.5](#) that are typically mailed can be done verbally or electronically. If a verbal or electronic reverification cannot be completed, the Seller can complete the file review without the reverification. However, to take advantage of this QC Flexibility, the Seller must:

- Track all Mortgages for which the verbal or electronic alternative reverification was not completed,
- Conduct a special discretionary sample of such Mortgages upon the expiration of the Effective Term, and
- Perform the required reverifications on the sample population

As reminders:

- The reporting requirements of [Section 3402.10](#) continue to apply with respect to this special discretionary sample
- Sellers are not required to perform certain reverifications of income and/or assets for Mortgages underwritten using AIM (asset and income modeler) with Loan Product Advisor, as described in Sections [5901.5\(c\)](#), [5902.7](#) and [5903.5\(c\)](#), as applicable.

Reverifications of property value

Sellers may continue to select either of the two options set forth in [Section 3402.5\(e\)](#) for reverifications of property value. However, in place of the field reviews under either Option 1 or Option 2, Sellers may obtain a quality control review using Loan Collateral Advisor® or other third-party tools to validate that the data and information provided in the appraisal is accurate and supports the value of the Mortgages Premises. If the reviewer reaches a different opinion regarding the value of the Mortgaged Premises through the use of Loan Collateral Advisor and/or the third-party tools, then the Seller may obtain a field review to determine whether the original property value can be supported. In either case, if the review results in a different conclusion regarding the value of the Mortgaged Premises, the Seller must report the difference as a finding in accordance with [Section 3402.10](#).

As a reminder, a desk review would still be required on the remaining nine Mortgages under Option 1.

Pre-closing quality control reviews

The requirements regarding a Seller's pre-closing quality control reviews set forth in [Section 3402.8](#) provide a great deal of flexibility regarding both sample size and scope of review. There is no change to the pre-closing quality control requirements at this time.

SYSTEM AND GUIDE UPDATES

We are not updating Loan Product Advisor feedback messages or the Guide at this time to reflect any of the changes noted in this Bulletin.

ADDITIONAL RESOURCES

We encourage Sellers to review the following resources:

- Our Single-Family web page on [COVID-19](#) [↗](#)
- Our [Selling FAQs](#) [↗](#) related to COVID-19
- The Center for Disease Control's web page on [COVID-19](#) [↗](#)
- The Appraisal Foundation's [Appraiser Qualifications and Standards Q&As](#) [↗](#)
- The Appraisal Institute's [Coronavirus-related Direction for Appraisers](#) [↗](#)
- National Association of Realtors [Coronavirus Guide for Realtors](#) [↗](#)

CONCLUSION

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call the Customer Support Contact Center at 800-FREDDIE.

Sincerely,

Danny Gardner
Senior Vice President, Client and Community Engagement