



**Announcement W05-01  
Wholesale Lending Division**

**EARNEST MONEY VERIFICATION AND ACCEPTABLE DOCUMENTATION**

Date: October 27, 2005  
To: Wholesale Team  
From: Underwriting Support  
RE: **Verification of Earnest Money Deposit**

This memo is intended to clarify when the initial deposit on the sales contract needs to be verified and the source of the deposit documented.

**Definition per the Fannie Mae Selling Guide:**

*The deposit on the sales contract for the purchase of the security property is an acceptable source of funds for both the down payment and closing costs. When the deposit is used to make any portion of the borrower's down payment that must come from his or her own funds, the source of the deposit must be verified. The receipt of the deposit generally should be verified by a photocopy of the borrower's cancelled check, although a written statement from the holder of the deposit is acceptable. The source of the funds for the deposit may be verified by either a bank statement or a Request for Verification of Deposit (Form 1006) that indicates that the average balance for the past two months was large enough to include the amount of the deposit. If the deposit check has cleared the bank account, the bank statement should cover the period up to (and including) the date the check cleared the bank account.*

**A. GRI Fannie Conforming (Excluding Fannie Flexible 80/20 and 100%)**

- 1) If the earnest money deposit is listed in the details of transaction and needed as part of the funds to close, it must be verified and documented per Fannie Mae guidelines and DU findings.
- 2) If the initial earnest money deposit is NOT needed for funds to close, it can be removed from the details of transaction on the 1003, resubmitted to DU and the all required funds to close verified from another source and per the DU findings. The deposit would still be reflected on the HUD 1 at closing.

**B. Fannie Flexible 80/20 and Flexible 100% Product**

The borrower is required to contribute a minimum of \$500 from their own funds to allow maximum financing; if not a 3% minimum down payment is required to a maximum LTV of 97% and allowed from flexible sources. The source of the funds for the deposit may be verified by either a bank statement or a Request for Verification of Deposit (Form 1006) that indicates that the average balance for the past two months was large enough to include the amount of the deposit. If the deposit check

has cleared the bank account, the bank statement should cover the period up to (and including) the date the check cleared the bank account and provide an updated balance. \*\*\*Underwriter discretion is allowed when reviewing a VOD versus the corresponding bank statement to ensure the borrowers minimum required contribution of \$500.

### **C. GRI Select and Elite Program**

- 1) If the earnest money deposit is listed in the details of transaction and needed as part of the funds to close, it should be verified as noted below.
- 2) If the initial earnest money deposit is NOT needed for funds to close, it can be removed from the details of transactions and the required funds to close verified from another source. The deposit would still be reflected on the HUD 1 at closing.
- 3) When using DU, the earnest money deposit must be documented per the findings. If the earnest money is not needed for funds to close, it should be removed from the details of transaction in DU and resubmitted.

Earnest money deposits included in the required funds to close must be fully documented.

Acceptable documentation includes:

- a. Copy of the cancelled check;
- b. Copy of the check not cancelled with bank statement (all pages) to evidence check cleared;
- c. Evidence from the Real Estate Broker (not the agent) that the funds were deposited into the broker's trust account (i.e. copy of broker's trust account statement); or
- d. Escrow agent/attorney's letter acknowledging receipt of funds

As a general rule, the source of the initial earnest money deposit does not require verification if it is reasonable based on the verified assets in the file or the prior 2-month average balance on a VOD. Underwriter discretion is allowed.

### **D. Premier Conforming and Jumbo**

- 1) If the earnest money deposit is listed in the details of transaction and needed as part of the funds to close, it should be verified as noted below.
- 2) If the initial earnest money deposit is NOT needed for funds to close, it can be removed from the details of transactions and the required funds to close verified from another source. The deposit would still be reflected on the HUD 1 at closing.
- 3) When using DU, the earnest money deposit must be documented per the findings. If the earnest money is not needed for funds to close, it should be removed from the details of transaction in DU and resubmitted.

If earnest money is being used as needed funds to close, a copy of the cancelled check or the check and corresponding bank statement to evidence the check clearing is required. If the amount of the earnest money exceeds 2% of the sales price, the source of the funds must be documented according to standard Fannie Mae guidelines.

## **E. New Construction**

### **Select and Elite**

Earnest money deposits made in excess of 90 days are considered seasoned and do not require documentation of the source; however it must be verified to use for required funds to close.

Acceptable documentation for verifications includes:

- a. Copy of the cancelled check;
- b. Copy of the check not cancelled with bank statement (all pages) to evidence check cleared;
- c. Evidence from the Real Estate Broker (not the agent) that the funds were deposited into the broker's trust account (i.e. copy of broker's trust account statement); or
- d. Escrow agent/attorney's letter acknowledging receipt of funds

### **Fannie Conforming**

If earnest money is used as part of the required funds to close, it must be verified. Refer to Section A. above for requirements.

### **Premier Conforming and Jumbo**

If earnest money is used as part of the required funds to close and in excess of 2% of the sales price, it must be verified. Refer to Section D. above for requirements.

## **F. Receiving Cash Back at Closing**

A copy of the cancelled earnest money check is must be provided to allow cash back to the borrower at closing. If the initial earnest money deposit will not be received back in its entirety and remaining as part of the required down payment, it must be documented as noted above.

## **G. Closing Condition**

The underwriting status sheet should indicate if an earnest money deposit was verified or not and if the borrower is able to receive any funds back using one of the following two conditions:

**EM has not been verified. No cash back allowed at closing**

**Earnest money in the amount of [ \$XXXX ] has been verified. Cash back at closing not to exceed [ \$XXXX ]**