Alert
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Fannie Mae and Freddie Mac Update all Uniform Legal Instruments

On July 7, 2021, Fannie Mae and Freddie Mac (the GSEs) introduced new uniform instruments (notes, security instruments, and riders) for use with loans to make them eligible for purchase by the GSEs. Lenders may begin using the new instruments immediately but must do so for all transactions closing on or after January 1, 2023. The family of new uniform instruments cannot be used in combination with earlier versions of any of the instruments, so use of the new uniform promissory note requires use of the new uniform mortgage, for example. For more information and to access the updated instruments, visit Fannie Mae's new legal documents page.

According to Fannie Mae, the new instruments are beneficial in the following ways:

- *Easier to use*. Employ more headings and subheadings, shorter paragraphs and sentences, and more clearly defined lists.
- *Provide more clarity*. Use plainer language and clarify the explanation of borrower and lender obligations.
- *Reflect industry changes*. Account for the changes that the industry has experienced over time and better reflect current industry practices and systems.

By way of background, the GSEs are privately held corporations created by Congress (Fannie Mae in 1938 and Freddie Mac in 1970) for the purpose of increasing credit in the housing finance environment. The GSEs buy single family and multifamily mortgages from lenders and either hold them in their portfolios or package the loans into mortgage-backed securities sold into the capital markets as investments. The GSE loan purchases increase lenders' liquidity and attract investors to the secondary mortgage market among those who may not otherwise invest in mortgages, thereby expanding the availability of funds for housing, making the secondary market more liquid, and lowering interest rates paid by homeowners and other mortgage borrowers. Fannie Mae states that, by providing standardization, modernization, and consistency across this family of loan documents, the ease and efficiency of selling residential housing loans into the secondary market will be greatly enhanced, increasing liquidity for all lenders.

Notably, the adjustable rate instruments acknowledge the impending demise of the London Interbank Offered Rate, or *LIBOR*, as the benchmark interest rate applicable to floating rate notes. The GSEs have adopted instead the Secured Overnight Financing Rate (SOFR) created by the Federal Reserve Bank of New York (the New York Fed). The New York Fed relates that SOFR is a broad measure of the cost of borrowing cash overnight collateralized by Treasury securities and an appropriate replacement index for LIBOR. For these floating rate instruments, the new instruments incorporate the compounded averages of the SOFR over a rolling 30-calendar day period. We have previously written on the subject of replacement interest rate indexes and their consequences HERE and HERE.

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