

## Mortgage Purchase Program Anti-Predatory Lending Policies

The following excerpts from the Mortgage Purchase Program Guide and Mortgage Partnership Finance® Origination Guide set forth the anti-predatory lending guidelines currently applicable to loans purchased under each mortgage purchase program.

### Mortgage Purchase Program (MPP) Guide:

#### Section 118 Guidelines to Promote Responsible Lending

In an effort to combat predatory and abusive lending practices, the Bank has established guidelines to promote responsible lending. PFI's must understand and comply with the requirements of applicable anti-predatory lending, abusive lending and other credit-related consumer protection laws and regulations. The Bank will not take federal preemption into account in imposing responsible lending guidelines. The Bank applies these guidelines without regard to whether a particular lender or loan transaction may be subject to federal preemption. The fact that Standard and Poor's may permit inclusion of such Mortgage Loans in rated transactions (with or without credit enhancement) does not render such Mortgage Loans eligible for purchase.

Documentation must be maintained in the loan file that demonstrates compliance with all such applicable laws and regulations, as well as the PFI's determination of whether the Mortgage Loan falls within any categorization or classification such as "high-cost," "high-risk," "high-fee," "high-rate," "covered" or similar category under any applicable state, federal or local law, rule, regulation or ordinance. PFI's must not sell to the Bank Mortgage Loans that:

- Exceed either the annual percentage rate or points and fees thresholds of the Home Ownership and Equity Protection Act of 1994 and its implementing regulations ("HOEPA");
- Violate any federal, state or local anti-predatory lending, abusive lending, or other credit-related consumer protection law or regulation designed to prevent or regulate abusive lending practices;
- Are classified as "high-cost," "high-risk," "high-fee," "high-rate," "covered" or other similar category based on interest rate (APR), points and fees, or other charges or compensation, as defined under any state, federal or local law, rule, regulation or ordinance ("APL Law"). The meaning of "APL Law" is construed broadly to include any such law, rule, regulation or ordinance aimed at predatory lending, abusive lending or other similar terms or practices or intended to provide consumer protection and regulate abusive lending practices in home Mortgage Loan transactions;
- Include prepaid, single Premium credit insurance;
- Standard and Poor's has declined to rate or that otherwise cannot be rated using Standard and Poor's LEVELS® program. These loans include:
  - ▶ All Georgia "home loans" closed from October 1, 2002 through March 6, 2003 (Georgia Interim Loans),

- ▶ All New Jersey “covered home loans” closed on or after November 27, 2003 and before July 7, 2004 (NJ Interim Loans), and “high-cost home loans” under the New Jersey Home Ownership Security Act,
  - ▶ All “high-cost home Mortgage Loans” as defined under the Massachusetts Predatory Home Loan Practices Act, effective November 7, 2004.
  - ▶ All “high-cost home Mortgage Loans” as defined under the Indiana Home Loan Practices Act, effective January 1, 2005.
- Cause the requirement of additional credit enhancement, so that the appropriate rating is achieved in a Standard and Poor’s otherwise rated structured finance transaction, securitization or other transaction, as a result of being categorized as a “high-cost home loan,” “covered loan” or “home loan” as provided in Standard and Poor’s LEVELS® Glossary Appendix E: Standard & Poor’s Predatory Lending Categorization (as the same may be amended from time to time).

### **Section 107 Eligible Loan Types\***

PFI’s may sell to the Bank only those Mortgage Loans that meet the following criteria:

- No Prepayment penalties;
- Eligible for inclusion in Standard and Poor’s rated structured finance transactions, securitizations, and other transactions; and
- Do not require additional credit enhancement for inclusion in any Standard and Poor’s rated structured finance transactions, securitization, and other transactions as a result of being categorized as a “high-cost home loan,” “covered loan”, “home loan”, or “high-risk home loan” as provided in Standard and Poor’s LEVELS® Glossary Appendix E: Standard & Poor’s Predatory Lending Categorization (as the same may be amended from time to time) (Exhibit A).

PFI’s must monitor their origination processes and procedures, as well as those of permitted third-party and Affiliate originators, to ensure that they do not sell ineligible Mortgage Loans to the Bank.

### **Section 1002.5 Loan Servicing Standards and Procedures\***

The PFI or designated servicer must have written policies and procedures in place to insure sufficient loan-servicing practices are followed. The Servicing Policies and Procedures must encompass and confirm that prudent servicing practices are followed. This includes, but is not limited to the following:

- All Mortgagor information is reported regularly to credit reporting bureaus.

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\* This section of the MPP Guide has not been reproduced in full; only the provisions applicable to the anti-predatory lending policy are included.

## **Mortgage Partnership Finance® (MPF) Origination Guide:**

### **2.6.1: Overview (7/9/04)**

The Mortgage Partnership Finance Program is an "A" quality risk sharing program between the MPF Banks and their PFIs. By design, a PFI must credit enhance each Mortgage to the equivalent of an "AA" rating to deliver the Mortgage into the MPF Program. This Credit Enhancement generally works to deter subprime mortgages from entering the MPF Program. Because PFIs are subject to extensive federal and state oversight and supervision, most predatory lending generally occurs in the subprime mortgage market. In the prime mortgage market, competition, homogeneity in mortgage terms, and better financial understanding by Borrowers typically deter predatory practices.

Predatory lending generally occurs when Borrowers use the equity in their homes for debt consolidation and other consumer credit purposes. Most Borrowers in this market have limited access to the mainstream-lending sector.

Some of the practices that fall under the description of predatory lending include: (1) very high interest rates; (2) very high fees; (3) "steering" a borrower toward a mortgage with a higher interest rate and/or fees even when the borrower could qualify under a less costly financing alternative; (4) approving a mortgage based solely on the value of the property; (5) lending without regard for a borrower's ability to repay the mortgage; (6) loan flipping, which consists of refinancing a mortgage without any real economic benefits to the borrower; (7) equity stripping, which is charging excessive fees and points; (8) failing to disclose prepayment penalties to the borrower or using them as a method to prevent a victim of "steering" from being able to refinance to a lower-rate mortgage; and (9) charging a higher rate of interest after a mortgage goes into default.

The MPF Banks believe that PFIs will join with us in identifying and avoiding such abusive lending practices. All MPF Program PFIs are unlikely participants in predatory lending practices. To assist PFIs in complying with their own regulatory guidelines, the MPF Banks have established these guidelines and will continue discussions with PFIs about how they can include more borrowers in the MPF Program. The information gained through these discussions will be used in making appropriate adjustments to these guidelines.

#### **2.6.1.1: Ineligibility of Unratable Loans**

When a rating agency determines that it cannot rate a structured finance transaction that includes particular mortgages due to the potential liability under Applicable Law, then such mortgages are not eligible for funding or purchase by the MPF Banks. As an example, New Jersey High Cost Loans (as defined by New Jersey law) and Georgia "interim loans" (loans covered by the Georgia Fair Lending Act and originated between October 1, 2002 and March 6, 2003 inclusive) are not eligible for delivery under the MPF Program.

### **2.6.2: Product Steering (7/9/04)**

The PFI should offer a borrower the lowest cost mortgage alternative for which the borrower qualifies. For example, a consumer that seeks financing through a PFI's higher-priced subprime unit should be offered the PFI's standard mortgage product line if the borrower qualifies for one of the standard products.

### **2.6.3: Borrower's Ability to Make Mortgage Payments (7/9/04)**

The MPF Program relies on the PFI's determination that Borrowers have a reasonable ability and likelihood of repaying their Mortgage debt. Regardless of the underwriting method the PFI uses, the PFI's underwriting of the Mortgage confirms that, at the time of origination, the Borrower can afford to make the Mortgage payments. This determination of the Borrower's ability to repay is made by comparing the Borrower's income, assets and liabilities to the proposed Mortgage payment. See Chapter 4 of the Underwriting Guide for Borrower Eligibility.

The MPF Banks' willingness to fund or to purchase Mortgages made to Borrowers with higher credit risk, is still predicated on the use of the MPF Program underwriting guidelines that require the Borrower have a reasonable ability to make the Mortgage payments and likelihood do so in a manner that will enable him or her to successfully maintain homeownership.

### **2.6.4: Allowable Points, Fees and Rates (7/9/04)**

PFI's generally have guidelines and policies that address the fees that originators and brokers can charge a Borrower when a Mortgage is originated. A Mortgage is not eligible for the MPF Program if the total points and fees charged to the Borrower are greater than: (i) five percent (5%) of the Mortgage amount, or (ii) the amount specified under Applicable Law which causes a loan to be classified as high cost, high rate, high risk or similar category of loan. Under this guideline, the definition of "points and fees" provided by applicable federal, state or local law will be applied without regard to the application of federal preemption rules, statements or other related announcements issued from time to time by banking regulators or other regulatory authorities. In the absence of Applicable Law providing a definition, points and fees will be defined as follows: Origination fees, underwriting fees, broker fees, finder's fees, and charges that the lender imposes as a condition of making the mortgage — whether they are paid to the lender or a third party. Points and fees that do not have to be counted against this limitation include bona fide discount points, (paid to reduce interest rate), buydown points paid by the borrower, as well as fees paid for actual services rendered in connection with the origination of the mortgage, such as: attorney's fees, notary's fees, and fees paid for property appraisals, credit reports, surveys, title examinations and extracts, flood and tax certifications, and home inspections; the cost of mortgage insurance; the costs of title, hazard, and flood insurance policies; state and local transfer taxes or fees; escrow deposits for the future payment of taxes and insurance premiums; and other miscellaneous fees and charges that, in total, do not exceed 0.25 percent of the mortgage amount.

In addition, a mortgage is not eligible for funding or purchase under the MPF Program if: (i) it is subject to the requirements in the Homeownership and Equity Protection Act of 1994 ("HOEPA") that apply to high-cost mortgages, as defined in HOEPA; or (ii) it is subject to the requirements of any federal, state or local laws that apply to loans identified as high cost, high risk or high rate loans or loans in other similar categories as defined by the applicable predatory or abusive lending law without regard to the application of federal preemption rules, statements or other related announcements issued from time to time by banking regulators or other regulatory authorities, or (iii) it is not ratable by a rating agency as described in Chapter 2.6.1.1.

In the event that an ineligible Mortgage is sold by a PFI to an MPF Bank, the PFI will be required to repurchase the Mortgage within five (5) Business Days after notice by the MPF Bank or MPF Provider, and the MPF Bank and MPF Provider will accomplish the repurchase in accordance with Chapter 24.3.2. In addition, the PFI may be required to make the MPF Bank whole for any losses or costs incurred during the time the MPF Bank held the Mortgage.

By delivering Mortgages under the MPF Program, in addition to the representations and warranties provided in the PFI Agreement and elsewhere in this Origination Guide, the PFI represents and warrants as follows on the date the Mortgage is delivered to the MPF Bank:

- The Mortgage is not a High Cost Loan as defined in the then-current version of Standard & Poor's LEVELS Glossary, Appendix E ("S&P's Exhibit E") the current version of which is attached to this Origination Guide as Exhibit A;
- The Mortgage is not a Covered Loan or Home Loan as defined in S&P's Exhibit E unless the Mortgage is identified in such category to the MPF Bank (using the appropriate LEVELS data field) at or before the time the Mortgage is delivered to the MPF Bank;
- The Mortgage is not considered not ratable by a rating agency as described in Chapter 2.6.1.1 including for example loans originated from October 1, 2002 through March 6, 2003 which are governed by the Georgia Fair Lending Act, and loans defined as high cost loans under New Jersey law;
- The Mortgage is not a high cost loan, high risk or high rate loan or a loan in similar categories as defined by applicable predatory or abusive lending laws without regard to the application of federal preemption rules, statements or other related announcements issued from time to time by banking regulators or other regulatory authorities;
- The PFI's compliance procedures are effective (and upon request by the MPF Provider or MPF Bank the PFI will demonstrate such effectiveness) to identify if the Mortgage falls into any of the ineligible categories described in the preceding four bullets and to determine that the Mortgage does not violate Applicable Laws including without limitation predatory lending laws; and
- The Mortgage was originated in compliance with all Applicable Laws, including but not limited to all applicable predatory and abusive lending laws without regard to the application of federal preemption rules, statements or other related announcements issued from time to time by banking regulators or other regulatory authorities.

#### **2.6.5: Single-Premium Credit Life Insurance Policies (7/9/04)**

Credit life insurance policies are life insurance policies that a Borrower may purchase to provide benefits that can be applied toward the repayment of a Mortgage Loan should the Borrower die before the Mortgage is paid off. Although some Borrowers choose to obtain credit life insurance policies, no Borrower should be required to purchase such policies as a condition of obtaining a Mortgage.

A mortgage is not eligible for funding or purchase under the MPF Program if the borrower obtained a prepaid single-premium credit life insurance policy in connection with the origination of the mortgage, regardless of whether the premium is financed in the mortgage amount or paid from the borrower's funds. This prohibition does not apply to credit life insurance policies that require separately identified premium payments on a monthly or annual basis or to prepaid hazard, flood or mortgage insurance policies.

### **2.6.6: Prepayment Penalties and Mandatory Arbitration Clauses (7/9/04)**

The following mortgages are not eligible for delivery under the MPF Program:

- Mortgages that include prepayment penalties in connection with the early payoff of the mortgage (See Chapter 12.5 of the Origination Guide); and
- Mortgages that include mandatory arbitration clauses.

### **2.6.7: Full-File Credit Reporting to Credit Repositories (7/9/04)**

A key factor that affects a Borrower's credit record is the amount of information that the credit repositories have on hand about the Borrower's payment history. To that end, the MPF Banks believe that it is important for a Borrower's entire Mortgage payment history to be reported to the credit repositories since that gives a Borrower who has a good payment record more opportunities to obtain new financing (and better mortgage terms) when the need arises.

To assure that the credit repositories have up-to-date information about both Servicing and origination activity, the Servicer is required to provide a full file credit status report for all MPF Mortgages to each of the designated credit repositories monthly (See Chapter 107.1.2 of the Servicing Guide). Full-file reporting includes Mortgages recently originated, current and delinquent Mortgages, and Mortgages liquidated through workout options, Foreclosure and charge offs.

### **2.6.8: Late Charges and Default Interest (7/9/04)**

MPF Servicers are not permitted to charge Borrowers a higher rate of interest after default. In addition, MPF Servicers are permitted to charge late fees in the amounts and at the times which are authorized by Applicable Law and by the relevant Mortgage documents, subject to all limitations and restrictions of Applicable Law and relevant Mortgage documents.

### **2.6.9: Summary (7/9/04)**

These Predatory Lending guidelines will be applied in cooperation with PFIs to make sure that the MPF Banks avoid funding or purchasing mortgages that involve abusive lending practices.

The MPF Banks recognize that many PFIs already have in place policies and procedures that are designed to avoid the practices noted in these guidelines, although they may not capture in their management information systems complete information for every mortgage. In view of this, the MPF Provider will work with PFIs to develop appropriate measures to ensure that predatory lending practices are avoided.

**SUMMARY OF LEVELS® GLOSSARY APPENDIX E:  
Standard & Poor's Predatory Lending**

The following summarizes the current version of Standard & Poor's Appendix E that is attached to the MPF Origination Guide and the MPP Guide as Exhibit A:

Standard & Poor's has categorized loans governed by anti-predatory lending laws in the jurisdictions listed below into three categories based upon a combination of factors that include (a) the risk exposure associated with the assignee liability and (b) the tests and thresholds set forth in those laws. Note that certain loans classified by the relevant statute as Covered are included in Standard & Poor's High Cost Loan category because they included thresholds and tests that are typical of what is generally considered High Cost by the industry.

- ▶ The following jurisdictions have enacted anti-predatory lending laws that regulate loans under S&P's High-Cost Loan Category: Arkansas, Cleveland Heights, Ohio, Colorado, Connecticut, the District of Columbia, Florida, Georgia (October 1, 2002 – March 6, 2003), Georgia (as amended, March 7, 2003 – current), HOEPA Section 32, Indiana, Kansas, Kentucky, Maine, Massachusetts, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, South Carolina, and West Virginia.
  
- ▶ The following jurisdictions have enacted anti-predatory lending laws that regulate loans under S&P's Covered Loan Category: Georgia (October 1, 2002 – March 6, 2003) and New Jersey.
  
- ▶ The following jurisdictions have enacted anti-predatory lending laws that regulate loans under S&P's Home Loan Category: Georgia (October 1, 2002 – March 6, 2003), Indiana, New Jersey, New Mexico, North Carolina, and South Carolina.