

M&T's Guide for SONYMA Loans

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A. GENERAL INFORMATION

The Federal Reserve Board issued its final rule August 16, 2010, amending TILA Regulation Z to regulate compensation paid to mortgage brokers and loan officers. Effective April 1, 2011, revisions to Regulation Z impose new requirements governing loan originator compensation and steering. The revisions were designed to insure responsible lending and to protect residential mortgage borrowers from unfair or abusive lending practices stemming from certain loan originator compensation practices.

To comply with this regulation, and provide access to SONYMA funding in the wholesale channel, M&T offers a non-processing Broker program.

Under this program, the responsibilities for both M&T and the Broker are as follows:

1. M&T Responsibilities:

- Issuance of TIL
- Reservation of loan using SONYMA'S Lender on Line System
- Request for written verifications. Including employment, deposit, rent, loans or mortgage
- Verbal Verifications of Employment
- Issuance of M&T Lock-in Disclosure
- Collection of SONYMA Lock-in Fee
- Schedule Homebuyer Counseling (when required)
- Upload of files to SONYMA and SONYMA'S Pool Insurer for decisioning
- Review of appraisal
- Completion of Underwriting & Transmittal Summary (Form 1008)
- Issuance of Commitment Letter
- Issuance of Final TIL

Note: The items listed above MUST be completed by M&T. Brokers are NOT permitted to conduct any of these actions/activities. To the extent that the broker includes documentation that M&T is responsible for, it will be returned. YOU WILL NOT EXPEDITE THE DECISIONING OF YOUR LOAN BY COMPLETING THESE TASKS.

2. Broker Responsibilities:

- Analyze the prospective borrower's income and debt; and prequalify the prospective borrower to determine the maximum mortgage that they can afford
- Educate the prospective borrower in the home buying and financing process, advise them about the different types of loan products available, and demonstrate how closing costs and monthly payments will vary under each loan product
- Prepare borrower's application
- Collect financial information (tax returns, bank statements) and other pertinent documents as part of the application process
- Assist the borrower in understanding and clearing any credit problems
- Maintain regular contact with the borrower, realtors and M&T from application through closing, keeping all apprised of the status of the application and to gather any additional information
- Initiate/order appraisal

3. First-time Home buyer:

A first-time Homebuyer is a person who has not had ownership interest in a primary residence within the past three years and, as of the application date, does not own an investment property or a second home. Interest in a co-op, life estate or property held in trust will constitute ownership interest. Time-shares will not constitute ownership if no deductions have been made on the borrower's tax returns. If a spouse was a previous homeowner, both are considered previous owners regardless of who is on the application.

If the applicants currently own a mobile home, they may qualify as a first-time Homebuyer provided:

- Mobile home is NOT permanently attached to land

If the borrowers own vacant land and can prove no improvements have been made, they may still qualify. Interest deductions on vacant land might be acceptable, but must be fully explained. (SONYMA decides on a case-by-case basis).

An applicant does not have to be a first-time Home buyer when (s)he is purchasing a property in a targeted area or when the applicant is a military veteran and complies with the terms set forth in the Military Veteran's Eligibility Affidavit (see exhibits).

4. Recapture Requirements:

Our applicants must be advised of the potential payment that they may be required to make to the federal government. This is done at application via the Recapture Notification. SONYMA again makes disclosure directly to the borrower after closing.

The payment will only be required if all three of the following apply:

1. The property is sold within the first nine (9) years
2. The property is sold for a profit (after capital improvements & closing costs)
3. Applicants' adjusted gross income is higher than the maximum income limit for their area based on the year sold and family size.

The recapture tax if applicable would be due to the IRS at the time the mortgagor files his federal return for the tax year in which the property was sold. The average borrower's chances of incurring penalty are minimal. The maximum liability is the lesser of 50% of the profit realized on the home or 6.25% of the original loan amount. The tax is pro-rated according to the number of years the property has been occupied. See pages 10-13 of the mortgagors' affidavit for the schedule.

SONYMA and their pool insurer, Genworth, have both launched programs to reimburse a borrower who is required to pay recapture tax, effective with closings on or after July 17, 2007. Genworth sends an enrollment packet to the borrower after closing (any borrower paying mortgage insurance is eligible). SONYMA has provided lenders with a reimbursement form that M&T sends to the borrower with their lock in agreement.

5. SONYMA's DOWN PAYMENT ASSISTANCE LOAN:

SONYMA will provide borrowers with assistance of the greater of \$3000 or 3% of the sales price, up to \$15,000 to cover down payment. Any available assistance not needed for down payment may be applied toward closing costs and prepaid expenses. The borrower's minimum investment is now calculated off of the net of the sales price less the DPAL. The borrower may not receive cash back. There are no additional qualifying requirements or restrictions and the DPAL is available in conjunction with any SONYMA product, with the exception of the Energy Star Homes or Habitat for Humanity. The borrower must sign the Interest Rate Option Form, in which the borrower will either accept or decline the DPAL and the DPAL Recapture Notice, which will disclose to the borrower potential recapture penalty if any of the following occurs:

5. Transfer of title within ten (10) years
6. Refinance of Mortgage within ten (10) years
7. Failure to owner Occupy

The original Interest Rate Opt Form and DPAL Recapture are required at the time of underwriting. The DPAL requires no monthly repayment and is forgiven after ten (10) years. The recapture penalty, if applicable, is based on a 10-year amortization at 0% interest.

CLTV

CLTVs may exceed 97% with DPAL Program. Home Buyer counseling will be required for all loans where CLTV exceeds 100%.

B. UNDERWRITING GUIDELINES

1. Eligible Borrowers:

Must be first-time homebuyer if purchasing in a non-target area. See page 1 for more information.

- a. Foreign mortgagors must have:
 - 2-year job history in the US (no foreign income can be used)
 - An established asset base in the US
 - 2-year credit history in the US (A full RMCR is required)
- b. Guarantors:
 - Must be a blood relative
 - Income will not be used to qualify borrower under debt/income ratios (Borrower must qualify at 33/38 on their own)
 - Strengthens lack of credit only
- c. Must be an arms-length transaction. The following is NOT acceptable:
 - Employee buying from employer.
 - Family member buying from family business.
 - Realtors buying from their own listings.
 - Partner buying from own partnership.
 - Applicant buying from a family member is considered on a case-by-case basis.

2. Income:

Income must pass two tests: standard credit underwriting (ratios) and compliance (income limits).

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a. Ratios

- Qualifying ratios are 40/45 for LTVs up to and including 97%.
- A two-year job history must be documented. Job changes must be explained if there are three (3) or more within the previous five (5) years or four (4) within the past six (6) years.
- Bonus, commissions, and overtime income: must be itemized properly on the VOE and likely to continue. Use a 24-month average.
- Second or part-time jobs: should be with the same employer for two (2) years. Use a 24-month average.
- Unreimbursed expenses: Are required to be deducted from borrower's income unless the loan is manually underwritten.
- Employed by a family business: Use a 24-month average. Provide pay stubs, VOE and 1040s for the past two (2) years.
- Self-Employed: Must provide 2 years tax returns. Use a 24-month average. Provide business returns when applicable. A signed year-to-date profit and loss, prepared by an accountant, will be required with applications dated after April 15th. M&T requires a profit and loss six (6) months after the fiscal year end for the business.
- Rental income: Use the lesser of 75% of actual rent or the economic rent per appraisal.
- Child support/ alimony income: must be documented as received regularly over the last 12 months and verified to continue for 3 or more years.
- Non-taxable income may be grossed up 25%.
- Child support/ alimony: Deduct from payer's gross monthly income.
- Trailing Spouse income may be considered. Please call M&T with scenario.

b. Compliance

- The combined total annual income for each occupying household member must be within the applicable income limits (see Product Parameters).
- A "household member" is the mortgagor, the mortgagor's spouse, and any other person age 18 or older that will occupy the property. The guarantor is not included unless they are going to occupy).

- Include a paystub for any occupant over 18. If the occupant is not working, the borrower is required to provide a notarized letter stating such.
- **To determine if borrowers meet income limits, annualize year-to-date pay, including bonus, and overtime.** Also include alimony received, if applicable.
- Child support is included in household income.
- Proposed rental income is **not** included in household income.
- For the self-employed borrower, obtain a year-to-date profit and loss, **prepared by a CPA on letterhead**, and annualize the net income.
- If the borrower has changed jobs during the year or was previously unemployed and has now gained employment, calculate their income using their new annual salary as though it had been received for a full year.
- Payments received for relocation, clothing, car or military housing & food allowances must be included in income calculations for compliance purposes.
- If the primary source of income is from a business run out of their home, **do not take the application.**
- Three years completed, signed federal tax returns, including all schedules are required on all non-targeted properties. Any real estate deductions taken in the past three years for a home occupied as a primary residence, even if the borrower did not own the home (i.e. Spouse filing joint return), disqualifies the borrower as a first-time homebuyer. Any other real estate deductions must be explained and are considered on a case-by-case basis.

3. Credit:

- Tri-merge reports are acceptable.
- Minimum of three-trade lines open and active over the most recent 18 months. Non-traditional sources are acceptable.
- Any undisclosed debt will have to be explained.
- Installment debt is not included if less than 10 payments remain. Applicants may pay debts down to qualify. **SONYMA will not allow revolving debt, including car leases, to be paid off to qualify.**
- If no payment is indicated on the credit report use 5% on the revolving balance and 2% on single payment notes.
- Child support paid by borrower cannot be subtracted from the borrower's income rather than added to debt.
- Student Loans deferred for less than 3 full years are included in debt ratio.
- Bankruptcy/ Foreclosure (automated underwriting now available):
 - Must have been discharged at least three (3) years from the date of application (4 for foreclosure).
 - Must have re-established good credit: minimum of 4 references, including at least one traditional and one housing-related; 3 of 4 must be active over the last 24 months
 - Must have stable employment
 - Circumstances must be explained and must have been for reasons out of the borrower's control.
 - Copies of all bankruptcy papers are required.
- To qualify for max financing, borrower can have **no** lates in the past 12 months.

4. Assets:

- **Minimum Equity Requirement: Borrowers must have 1 % own funds** (except on 3-4 unit or co-op, 3% is required), **in their account at the time of application.** SONYMA will allow up to \$1000 cash on hand after the borrower's minimum contribution has been met, provided it has been deposited into the borrower's account. The remaining down payment may come from gift or grant. Borrowers with a 20% or greater gift, gift of equity, or inheritance share, do not need to evidence a minimum own funds contribution.
- Large deposits must be sourced.
- Acceptable Sources for Additional Downpayment and Closing Costs :
- Gifts from immediate family members, fiancé(e) or domestic partner or corporations established for humanitarian purposes, state or local agency where no repayment is required. Follow documentation requirements on LP/DU findings. If loan is underwritten manually, a gift letter, donor ability, transfer

and deposit are required. (Seller may not be the gift donor.)

- Retirement Loans are acceptable sources of down payment and no debt is used in qualifying.
- Sales concessions must be common for the area and appraiser must state such on the appraisal. See product parameters for allowable concessions.
- Sale of Assets where ownership and market value of the asset can be documented. Verification the funds were received from an arms-length source is also required.
- Joint Accounts will be considered as borrower's own funds. Joint access letter is no longer required.
- Inheritance transactions/ Gifts of Equity - the maximum mortgage is based on the sales price less the mortgagor's share of ownership or the amount of the gift, i.e.:

Sales Price \$100,000

25% Share - \$25,000

= \$75,000 maximum mortgage

To calculate LTV = $75000/100,000 = 75\%$ therefore no PMI required.

Other members of estate can NOT be gift donors.

Borrowers must still have 3% of their own funds

- Grants, if applicable, which meet the following criteria do not need prior approval :
 - The subsidy or secondary financing program must be sponsored by a federal, state, or local government agency, or another source that is acceptable to SONYMA and its pool insurer.
 - If the subsidy mortgage and/or note instruments require payments during the loan term, such payments will be considered a monthly debt obligation of the borrower and shall be included in the bottom ratio.
 - SONYMA will finance up to 100% of the discounted sales price provided borrowers have made the minimum contribution, calculated on the discounted sales price. Matching funds are not included in for the minimum contribution. In cases where CLTV exceeds 100% (use of closing cost assistance programs), Home Buyer Counseling will be required.
 - In cases where SONYMA's requirements are more restrictive than the requirements of the subsidy program, SONYMA's requirements must prevail.
 - The subsidy mortgage instruments, deed, and /or any laws or documents must be subordinate to the mortgage loan sold to SONYMA and must not contain any restrictive provisions that would prevent the first mortgage holder from reselling the eligible property to any qualified purchaser after foreclosure or acceptance of a deed in lieu of foreclosure.

5. Property:

- Single Family- Existing and New Construction (includes condos, co-ops, PUDs and prefabricated homes permanently affixed to real property).
- Two Family- Existing Housing. New construction and properties less than 5 years old must be located in a Target Area. Properties that are more than five (5) years old as of the application date must have been used for residential purposes only during the previous five (5) years.
- Three and Four Family- Existing Only- must be at least five (5) years old as of application date and used only for residential purposes during the previous five years. ** See product parameters for LTVs.
- Properties can be located in a targeted or non-targeted area. Call 800-382-HOME with property address and zip code to determine target status.
- NYS Law requires the 'Seller Property Condition Disclosure' attached to the contract of sale or a \$500 reduction in sales price, which may affect the borrower's loan amount.
- Property cannot be used for commercial/ industrial or business use for any property type.
- Land contracts are not allowed.
- Minimum 500 square feet.
- Maximum lot sizes:
 - Zoned Areas: maximum land is one house lot, which cannot be subdivided. A letter From the local municipality, as described below, is required.
 - Rural (unzoned) Areas: no more than five acres. SONYMA may make an exception up to 10 acres if the local municipal authority provides a letter that the property can only be used for

residential purposes and not for business, commercial or agricultural uses.

- Properties with two or more parcels are not allowed.
- Properties containing more than one building are eligible only if it can be established that the additional building cannot be used for one or more separate residences. Interior /exterior photos and a description from the appraiser is required to establish the use of outbuildings.
- Remaining economic life of property must be five (5) years or more than the term of the loan.
- Private Roads require a recorded maintenance agreement, signed by all parties.
- Private water and septic systems must meet all local standards. Certification will be required.
- New build: if borrowers have owned land for more than two (2) years, the cost/ value of the land WILL NOT be included as part of the acquisition cost.
- Mother/Daughter Units may be acceptable to SONYMA, if the unit conforms to all local codes, is common and typical to the area, and there is interior access to the units. Neither of the units can be income producing. The appraiser must provide at least one mother/daughter comparable. The unit will be considered a single family for purchase price limits.
- Summer kitchens may be allowed if the appraiser states that they are common and customary for the area. The area containing the 2nd kitchen cannot be set up for separate living quarters.
- Exterior repair escrows allowed only during winter months, with SONYMA's written Approval at 1-1/2 times the appraiser's estimate of cost.
- Interior repair escrows are not allowed.
- **Completed Questionnaires are required for all project types.** Appraisals for existing projects must contain 2 comparables inside the project and 1 outside.
- Condos/PUDs:
 - Minimum of 10 units, min of 500sq ft per unit
 - Pre-sale for LTV above 90%=51%, below 90%= 40%
 - Maximum 30% investor concentration
 - The project must be professionally-managed or self-managed with 10 years experience and 75% pre-sale.
- Co-Ops:
 - Minimum of 10 units in a project, min 500sq ft per unit
 - Pre-sale for existing projects= 40%, for existing projects= 51%
 - Maximum 30% investor concentration
 - The underlying mortgage must have a minimum of 3 years remaining.
 - Flip taxes will reduce the sales price and LTV will be calculated off the reduced price.
 - The project must be professionally managed or self managed with 10 years experience and 75% pre-sale.
 - Pro-rata share can NOT exceed 35% of lesser of sales price or appraised value.
 - Up to the lesser of 10 spot loans or 50% of total units.
 - M&T will approve the project
 - Proof of Insurance for the Project is required

II. GETTING STARTED

A. FEES:

- 1% lock-in will be collected by M&T from the borrower upfront in accordance with TILA. The lock fee must be disclosed on the GFE in Block 1. M&T's origination fee is \$400 and will be collected at closing. This also must be disclosed on the GFE in Block 1. For the construction incentive program, SONYMA reserves the right to refuse any loan reservation request that in its judgment, can not be reasonably expected to close within 240 days application.
- **Only M&T paid compensation is permissible on SONYMA products. You are not permitted to collect additional compensation from the borrower. See rate sheet for loan compensation to the broker. This must be disclosed in Block 1 of the GFE AND in Block 2, Box 2 of the GFE.**
- **For additional charges refer to the rate sheet (i.e.: attorney, flood cert, tax service, recording, title insurance and mortgage tax). Broker collects the cost of the appraisal and credit report. The collection of the charges must comply with TILA. SONYMA does not allow any other charges.**

B. RATES:

- SONYMA rates are published every Monday and Friday, subject to change without notice.

C. REGISTRATION:

- Register the loan on MEME and send the following documentation via e-mail or fax to **866-441-8535**:
 - **Entire signed and dated application,**
 - **First and last page of the fully executed contract,**
 - **DPAL Interest Rate Opt Form,**
 - **GFE,**
 - **Good Faith Cost Breakdown and Intent to Proceed and**
 - Include project name if property is a condo, PUD etc.

Note: M&T cannot reserve a SONYMA loan until all parties have signed the contract. The application cannot pre-date the contract. M&T must reserve loans with SONYMA within seven (7) days of the application date.

- A bank attorney must be assigned. Please see exhibits for registration forms and M&T approved attorneys. (SONYMA Approved Attorney List, Exh 03-082)
- Please remember Home Buyer Counseling is required on ALL Achieving the Dream loans and all loans WHEN (1) the borrower is making the minimum 3% contribution, (2) the LTV exceeds 95% or (3) where the CLTV exceeds 100%. **M&T will coordinate counseling through Genworth, which must be completed before file is submitted to Genworth for underwriting.**

D. SONYMA CHECKLIST:

- Submission of the SONYMA Package to M&T should be completed in accordance with Exhibit 02-223 SONYMA Checklist.
*Please note: with the exception of the Sellers Affidavit, the above forms must be fully completed, notarized and submitted in their original format before M&T can obtain SONYMA approval. We recommend the affidavits be completed in **blue ink** to avoid any confusion as to whether the document is original (black ink tends to look like a photocopy). The original Sellers Affidavit must be presented prior to closing.*
- **Documentation Guidelines:**
 - Employment- should be documented by W2 forms for the most recent 2 years; computer – generated pay stubs or payroll earnings statement for the most recent 30 day period including year-to-date information and identifying the borrower;

NOTE: A signed verbal verification of employment, specifying method of independent confirmation of employer's telephone number (i.e. directory assistance), borrower's employer, name & title of person contacted, date of contact and

addressing current employment, probability of continued employment and bonus/overtime is required. M&T will perform the Verbal Verification of Employment. VVOE's submitted in your loan package will be returned to you. M&T does not permit VVOE's to be completed by the broker.

- All documents must be original or certified true copies of the original.
- SONYMA will accept documentation downloaded from the Internet, provided the website address is clearly indicated on the documentation. If verifying assets via internet, the following must also be clearly indicated: name of the depository institution, account holder's name and account number, time period covered by the printout, all deposit and withdrawal transactions and ending balance.

E. SUBMISSION:

- The original should be sent to:
M&T Bank
1 Fountain Plaza 7th floor
Buffalo, NY 14203
Attn: Wholesale Lending
- Submission of the SONYMA Package to M&T should be completed in accordance with Exhibit 02-223 SONYMA Checklist.

Please note: with the exception of the Sellers Affidavit, the above forms must be fully completed, notarized and submitted in their original format before M&T can obtain SONYMA approval.

We recommend the affidavits be completed in **blue ink** to avoid any confusion as to whether the document is original (black ink tends to look like a photocopy). The original Sellers Affidavit must be presented prior to closing.

F. EXTENSIONS:

- Extensions: SONYMA may extend a commitment, but the rate will not be extended. The loan will close at the higher of the original locked or the prevailing rate. Please forward the extension request in the form of an attorney's letter specifying the time needed and the reason for the extension, prior to expiration. M&T will notify you of SONYMA's decision.

G. EXHIBITS:

The following forms are required for SONYMA and are located on our website, under SONYMA Forms.

- Recapture and Sellers Affidavits
- Down Payment Assistance Loan Recapture Notice
- Interest Rate Opt Form
- MI Premium Charts
- Home Buyer Education Form
- M&T Registration Form
- M&T Approved Attorneys