





For Freddie Mac (LPA) transactions, the pay-off of a first mortgage, that was originated as a refinance, must have at least 30-days seasoning from Note date to Note date of the new rate-and-term refinance transaction.

Any loan identified with less than 30-days seasoning on a new rate-term refinance transaction when paying off an existing refinance must close and fund or be delivered to Flagstar by Friday July 9, 2021.

## POWER OF ATTORNEY

As a result of the recent updates issued by Fannie Mae and Freddie Mac regarding the use of a Power of Attorney, Flagstar has revised our POA requirements as follows:

- Flagstar will continue to retain our existing POA requirements including, but not limited to, the restriction of use on all cash-out, investment, and single borrower transactions.
- Clarification is being added to indicate the eligible persons who may act as an agent for the borrower and tolerances for the use of a POA to sign application documents. New guidance is being added along with an overlay to address parties who are restricted from acting as an eligible agent.
- For second liens products (e.g. HELOC) the use of a Power of Attorney is allowable when approved for use under the concurrent Flagstar first lien mortgage.

## REVISED POWER OF ATTORNEY REQUIREMENTS

A Power of Attorney (POA) is a legal document giving one-person (described as the agent or attorney in fact) power to legally bind the borrower enacting the POA to the mortgage transaction. The below requirements apply to any use of a POA for the closing documents, regardless if the person enacting the POA is a borrower to the transaction (e.g. party to title only).

The below restrictions may be disregarded only when documentation is provided that an applicable law requires Flagstar to accept the use of the POA without limitations.

Eligible Occupancy Types	Owner Occupied and Second Homes only. Investment properties are not eligible. (Overlay: Fannie Mae and Freddie Mac allow investment property transactions)
Eligible Loan Purpose	Purchase and Rate-Term Refinance only. Cash-out transactions are not eligible. (Overlay: Freddie Mac allows cash-out transactions with additional requirements)
Borrower Eligibility	At least one borrower must be present at closing. POA may only be utilized when there are multiple borrowers on the loan transaction. Single borrower transactions will only be considered when the borrower is engaged in military service outside the U.S. or when the Flagstar has historical experience with the borrower to compare the POA signatures.  Fannie Mae will allow a POA when property is held in the name of a Trust when one of the following is met: <ul style="list-style-type: none"><li>• The Trust agreement authorizes the trustee to use a POA to delegate powers to an agent/attorney in fact; or</li><li>• The agent under the POA is the borrower creating the Trust.</li></ul> (Conventional Overlay: Fannie Mae and Freddie Mac do not restrict the number of borrowers present at closing)

Power of Attorney	<ul style="list-style-type: none"> <li>• Must be specific to the transaction referencing the property address, unless the POA is a Military Durable POA.</li> <li>• Signatures on the POA must match signatures in the file to Flagstar Bank's satisfaction (may not be eSigned).</li> <li>• POA must be notarized.</li> <li>• The POA must be executed by the borrower prior to its use by the agent.</li> </ul> <p>(Overlay: Freddie Mac does not require loan specific POA and allows for e-signed POA)</p>
Eligible Circumstance	<p>For Freddie Mac Conventional transactions only, a POA is only allowable when the borrower's circumstances do not allow the borrower to be present at the closing due to a hardship, emergency or military deployment. A power of attorney may not be utilized for the convenience of the borrower.</p> <p>Verification must be provided indicating the circumstances to allow a POA.</p>
Application	<p>The application and Purchase Agreement (if applicable) must be signed by all parties of the loan.</p> <p>For Conventional transactions only, a POA may sign the initial application in one of the below circumstances:</p> <ul style="list-style-type: none"> <li>• Borrower is on military service servicing outside the U.S. or deployed on a U.S. vessel, as long as the POA expressly states the intent to secure a loan on the subject property.</li> <li>• The agent is the spouse or domestic partner to the borrower.</li> <li>• The agent is also a borrower on the transaction, signing in their ownership interest in the mortgaged property.</li> </ul>
Eligible Agent/ Attorney in Fact	<ul style="list-style-type: none"> <li>• Family member of the borrower</li> <li>• Freddie Mac only, a person with a Fiduciary interest (i.e. person is on the loan or vested on title)</li> </ul>
Ineligible Agent/ Attorney in Fact	<p>Except as required by applicable law, the person acting as attorney-in-fact may not be employed by or affiliated with any party to the loan transaction other than the borrower.</p> <ul style="list-style-type: none"> <li>• Individuals employed by or affiliated the title insurance company</li> <li>• Any affiliate of the lender or loan originator</li> <li>• Any employee of the lender</li> <li>• Property Seller, or any person related to the seller</li> <li>• Real estate agent with an interest in the transaction</li> </ul> <p>(Overlay: Fannie Mae and Freddie Mac allow for an individual employed or engaged with the title agency to act as an agent with additional requirements to allow for Fannie Mae)</p>
Title	<p>The title policy must not make any exceptions to the use of a POA. See Flagstar's Settlement/Closing Requirements, for signature requirements</p>
Flagstar Secondary Financing	<p>The use of a POA under a Flagstar concurrent secondary lien (e.g. HELOC) is eligible when approved under the concurrent first lien mortgage.</p>

Refer to the [Conventional Underwriting Guidelines](#) for complete details which may supersede Fannie Mae and Freddie Mac Seller Guides.

**ADDITIONAL RESOURCES**

[Fannie Mae SEL-2021-02](#)

[Freddie Mac Bulletin 2021-16](#)



If you have any questions on the contents on this memo, please email [underwritingsupport@flagstar.com](mailto:underwritingsupport@flagstar.com) or call the Underwriting Support Desk at (866) 945-9872