

## Revised Power of Attorney Requirements

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**Purpose**

This announcement includes the following topic:

- ✓ Power of Attorney
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**Revised POA Requirements**

Effective with applications taken on/after June 30, 2021 and pertaining to all loan types, excluding USDA which is not allowed:

Due to the recent updates issued by Fannie Mae and Freddie Mac regarding the use of a Power of Attorney, FSM has revised our POA usage requirements to the following:

- ✓ Purchase transactions only
    - Purchases may not receive money back when using a POA
    - No refinances to include Texas Section 50(a)(6) loans
  - ✓ Primary residence only
  - ✓ Inter Vivos Trust and Land Trust transactions are not permissible
  - ✓ Cannot be used to sign initial URLA and Purchase Agreement/Contract
  - ✓ Only persons with a familial connection to the borrower *or their attorney* may act as their agent.
  - ✓ Not allowed for Single Borrower Transactions
    - At least 1 borrower must attend the closing
  - ✓ ***May only be used in a hardship situation – not for convenience.***
    - Definition of Hardship: The Borrower is unable to attend closing because he/she is out of the state or country *for an extended period*, bedridden, in the hospital with a serious illness, or on Military active duty.
    - Definition of Convenience (not all inclusive): The Borrower is on vacation, Borrower is not able to attend closing at a specific time, Borrower does not want to take the day off work.
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## Revised Power of Attorney Requirements, Continued

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**Revised POA  
Requirements,  
continued**

**Additional requirements:**

- ✓ A written explanation from the borrower of why they are not able to execute documents in person or by using an alternative method is required for approval of using a POA. It must be provided to the VP of Closing with the POA, prior to closing, for approval. POA will not be reviewed until written explanation is provided.
  - This explanation is to be retained in the loan file.
- ✓ If POA is permitted, a signed acknowledgement from the borrower is required stating a conversation was held with them:
  - after final CD was issued, but prior to consummation
  - Confirming a review of the rate, term, and principal balance of the new loan
  - The property address
  - That an attorney-in-fact is using the borrower's POA to sign documents on behalf of the borrower
  - The scheduled or estimated closing date

*Note: Signed Borrower Acknowledgment of Conversation must be provided to closer before the loan will be funded.*

- ✓ If hardship is not met and borrower is not at the closing, an approved alternate method for signing the closing documents may be used.
  - **“Mail away” closing documents is not an approved alternate method and is not allowed. Closing documents must stay in the chain of custody of the title company by either using a mobile notary or utilizing a branch of the title company to conduct a witness-only closing.**

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## Revised Power of Attorney Requirements, Continued

### POA Matrix

Topic	Requirement
Eligible Occupancy Types	Primary Residence only. <ul style="list-style-type: none"> <li>No 2<sup>nd</sup> Homes or Investment Property</li> </ul>
Eligible Loan Purpose	Purchase Transactions Only <ul style="list-style-type: none"> <li>Purchases may not receive money back when using a POA</li> <li>No refinances to include Texas Section 50(a)(6) loans</li> </ul>
Eligible Loan Type	Conventional, FHA and VA only <ul style="list-style-type: none"> <li>Not allowed on USDA loans</li> </ul>
Borrower Eligibility	At least one borrower must be present at closing. <ul style="list-style-type: none"> <li>No single borrower transactions</li> </ul> No Inter Vivos Trust or Land Trust
Power of Attorney	Must be specific to the transaction, referencing the subject property address Must be notarized Signatures on the POA must match the signatures in the file POA must be executed by the borrower prior to its use by the agent POA must have an expiration date
Eligible Circumstance	<i>May only be used in a hardship situation – not for convenience.</i> <u>Definition of Hardship</u> : The Borrower is unable to attend closing because he/she is out of the state or country <i>for an extended period</i> , bedridden, in the hospital with a serious illness, or on Military active duty. Being on vacation does not qualify as a hardship and an alternate method of closing must be used

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**Revised Power of Attorney Requirements, Continued**

POA Matrix, continued	Topic	Requirement
	Application	Application and Purchase Agreement/Contract must be signed by all parties.
	Eligible Agent	Family member of the borrower or their Attorney.
	Ineligible Agent	Individuals employed by or affiliated with the title insurance company Any affiliate of the lender or loan originator Any employee of the lender Property Seller or any person related to the Seller Real estate agent with an interest in the transaction
	Secondary Financing	Allowed when POA is approved for use with concurrent first lien mortgage
	Title	The title policy must not make any exceptions to the use of a POA

**Alternative Methods to using a POA**

Most title companies will assist with locating and coordinating a mobile notary or a witness-only closing

- ✓ Mobile Notary – notary obtains closing documents and goes to the location of the borrower
- ✓ “Witness-Only” closing – closing documents are sent to a title company where the borrower is located and borrower signs documents there.

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Issue Date 07/01/21

Effective Date As Noted

GA 2021-019

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## Revised Power of Attorney Requirements, Continued

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**Effective Date** As Noted

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**Questions** Retail - Please contact your manager with any questions  
Mod Corr – Please contact Brent Wilder, National Account Executive, at  
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