



MFM Bulletin: 003-2021

Date: February 12, 2021

Subject: Updated FHA Eligibility (DACA) Requirements

Effective January 19, 2021, the Federal Housing Administration (FHA) will permit individuals classified under the “Deferred Action for Childhood Arrivals” program (DACA) with the U.S. Citizenship & Immigration Service (USCIS) and are legally permitted to work in the U.S. to be eligible for FHA loans.

Prior to the announcement, the FHA Single Family Housing Handbook (“Handbook 4000.1 Section II.A.1.b.ii(A)(9)(c) includes this statement: “Non-US citizens without lawful residency in the U.S. are not eligible for FHA-insured mortgages.” This language was incorporated into the FHA Handbook by the Obama Administration in September 2015, although it was first incorporated into FHA guidelines in 2003. The term “lawful residency” pre-dates DACA and thus did not anticipate a situation in which a borrower might not have entered the country legally, but nevertheless be considered lawfully present. To avoid confusion and provide needed clarity to HUD’s lending partners, FHA is waiving the above referenced FHA Handbook subsection in its entirety. In a subsequent update to the FHA Handbook the language will be removed.

Other FHA requirements remain in effect for all potential borrowers including DACA status recipients:

- The property will be the borrower’s principal residence;
- The borrower has a valid Social Security Number (SSN), except for those employed by the World Bank, a foreign embassy, or equivalent employer identified by HUD;
- The borrower is eligible to work in the U.S., as evidenced by the **Employment Authorization Document issued by the USCIS; and**
- The borrower satisfies the same requirements, terms, and conditions as those for U.S. citizens.

The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the lender may assume that continuation will be granted. If there are no prior renewals, the lender must determine the likelihood of renewal based on information from the USCIS.

A borrower residing in the U.S. by virtue of refugee or asylee status granted by the USCIS is automatically eligible to work in this country. The Employment Authorization Document is not required but documentation substantiating the refugee or asylee status must be obtained.

Please contact the MFM Underwriting department (underwriting@memberfirstmortgage.com) if you have any questions or concerns.

Thank you