

FREQUENTLY ASKED QUESTIONS REGARDING 50(f)(2) RATE/TERM REFINANCES OF TEXAS HOME EQUITY LOANS

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Basic Requirements of a 50(f)(2) Rate/Term Refinance

Question: When refinancing a 50(a)(6) home equity loan into a rate/term refinance for the first time, what are the requirements?

Answer: A rate/term refinance of a 50(a)(6) Texas home equity loan is governed by Article XVI, Section 50(f)(2) of the Texas Constitution. Accordingly, this type of loan is typically referred to as a "50(f)(2) refinance." There are four requirements for any 50(f)(2) refinance of a home equity loan that must be met to create a valid lien. Additionally, the Constitution provides that an affidavit executed by the owner or the owner's spouse acknowledging that the requirements of Article XVI, Section 50(f)(2) of the Constitution have been met conclusively establishes that the requirements of Article XVI, Section 50(a)(4) of the Constitution (which governs refinance of liens against the homestead) have been met.

The four Constitutional requirements for a valid 50(f)(2) refinance lien are:

1. At least one year must have passed since the closing of the home equity lien being refinanced;
2. The 50(f)(2) refinance cannot include an advance of any additional equity. The loan may only include money to: (1) refinance any valid lien against the homestead, and (2) finance closing costs and reserves required by the lender;
3. The CLTV of all debts secured by the homestead on the date the 50(f)(2) is closed may not exceed 80% of the fair market value of the homestead (same CLTV rule that applies to a 50(a)(6) home equity loan); and
4. The lender must provide the borrower with the 50(f)(2)-specific 12-day notice within 3 business days of taking the application. Note: *the 50(f)(2) 12-day notice is a different form than the 12-day notice that the lender provides for a 50(a)(6) Texas home equity loan.*

Texas Constitution, Article XVI, Section 50(f)(2):

(f) A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a)(6) of this section, may not be secured by a valid lien against the homestead unless . . .

. . . (2) all of the following conditions are met:

(A) the refinance is not closed before the first anniversary of the date the extension of credit was closed;

(B) the refinanced extension of credit does not include the advance of any additional funds other than:

(i) funds advanced to refinance a debt described by Subsections (a)(1) through (a)(7) of this section; or

(ii) actual costs and reserves required by the lender to refinance the debt;

(C) the refinance of the extension of credit is of a principal amount that when added to the aggregate total of the outstanding principal balances of all other indebtedness secured by valid encumbrances of record against the homestead does not exceed 80 percent of the fair market value of the homestead on the date the refinance of the extension of credit is made; and

(D) the lender provides the owner the following written notice on a separate document not later than the third business day after the date the owner submits the loan application to the lender and at least 12 days before the date the refinance of the extension of credit is closed...

One Year Prohibition for 50(f)(2) Rate/Term Refinance Loans

Question: Does an existing home equity borrower whose 50(a)(6) home equity loan closed less than one year ago have to wait a full year to refinance from the existing Home Equity into a rate/term refinance? Does the one year waiting period apply even when the borrower is not taking any additional equity out of the homestead property?

Answer: Yes and yes. The he Texas Constitution requires that a borrower wait until the one-year anniversary of the closing of the home equity loan to refinance it with either another 50(a)(6) home equity loan (which may include additional equity out) or a 50(f)(2) rate/term refinance (which may not include additional equity out). In addition, some investors and title companies may require that the one-year waiting period run from the funding date of the home equity loan, or even from the date the home equity security instrument was recorded—lenders should confirm the existence of any such overlays with their investor and title company.

Texas Constitution, Article XVI, Section 50(f)(2)(A) :

(f) A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a) (6) of this section, **may not be secured by a valid lien against the homestead unless . . .**

. . . (2) **all of the following conditions are met:**

(A) **the refinance is not closed before the first anniversary of the date the extension of credit was closed . . .**

7 Texas Admin. Code §153.45:

A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a)(6) of Section 50, may not be secured by a valid lien against the homestead unless either the refinance of the debt is an extension of credit described by Subsection (a)(6) or (a)(7) of Section 50, or all of the conditions in Section 50(f)(2) are met.

(1) **One Year Prohibition.** To meet the condition in Section 50(f)(2)(A), the refinance may not be closed before the first anniversary of the closing date of the equity loan. For purposes of this section, the closing date of the refinance is the date on which the owner signs the loan agreement for the refinance.

Delivery of the 50(f)(2) 12-Day Notice

Question: Does Texas law allow the lender to deliver the 50(f)(2) 12-Day Notice along with other early disclosures, such as the Loan Estimate within three business days of application?

Answer: Yes, a 50(f)(2) 12-Day Notice may be sent with the other initial disclosures. Texas Constitution, Article XVI, Section 50(f)(2) requires that the creditor provide a 50(f)(2) 12-Day Notice to the homestead owner within three business days of application (see below). However, 7 TAC §153.45 clarifies that the lender must **deliver the refinance disclosure or place it in the mail** no later than the third business day after the owner submits the loan application, which generally conforms the delivery timeline for a 50(f)(2) 12-Day Notice to the timing requirements for the Loan Estimate under TRID. Be aware, however, that the definition of business day for the 12-Day Notice is different than the definition of business day under TRID, which turns on whether the creditor's offices are open for substantially all of its business operations when counting Saturdays. (See 7 TAC 153.1 below)

Texas Constitution, Article XVI, Section 50(f)(2)(D):

(f) A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a)(6) of this section, may not be secured by a valid lien against the homestead unless . . .

. . . (2) all of the following conditions are met: . . .

. . . (D) the lender provides the owner the following written notice on a separate document not later than the third business day after the date the owner submits the loan application to the lender

and at least 12 days before the date the refinance of the extension of credit is closed . . .

7 Texas Admin. Code §153.45:

(4) Refinance Disclosure. To meet the condition in Section 50(f)(2)(D), the lender must provide the refinance disclosure described in Section 50(f)(2)(D) to the owner on a separate document not later than the third business day after the date the owner submits the loan application to the lender and at least 12 days before the date the refinance of the extension of credit is closed.

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(D) The lender must deliver the refinance disclosure or place it in the mail no later than the third business day after the owner submits the loan application. The refinance disclosure must be delivered to the owner at least 12 days before the refinance is closed. **If a lender mails the refinance disclosure to the owner, the lender must allow a reasonable period of time for delivery. A period of three calendar days, not including Sundays and federal legal public holidays, constitutes a rebuttable presumption for sufficient mailing and delivery.**

7 Texas Admin. Code §153.1:

(2) Business Day--All calendar days except Sundays and these federal legal public holidays: New Year's Day, the Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

Signing the 50(f)(2) 12-Day Notice

Question: Are borrowers and spouses required to sign the 50(f)(2) 12-Day Notice?

Answer: There is no legal requirement for the 50(f)(2) 12-Day Notice to be signed. However, an investor or the lender's policy may require signatures. That being said, we recommend that the 12-Day Notice be signed by the borrower and spouse to evidence receipt.

Providing the 50(f)(2) 12-Day Notice to Spouses

Question: What happens when the 12-Day Notice is delivered only to the borrower, and the lender subsequently discovers the borrower is married?

Answer: When refinancing a home equity loan into a 50(f)(2) rate/term refinance loan, the lender is only required to provide one copy of the 12-Day Notice to married owners. See 7 TAC §153.45(4)(E) (below). Accordingly, the lender does not violate Texas law by failing to provide a separate 12-Day Notice to the borrower's spouse. This is also true when the lender refinances an existing 50(a)(6) home equity loan into another 50(a)(6) home equity loan.

To demonstrate compliance with the delivery and timing requirements for each 12-Day Notice in Texas, however, it is common and customary to:

- (1) require homestead owner signatures on the 12-Day Notice; and
- (2) have both spouses sign the 12-Day Notice on a 50(a)(6) home equity loan (even if one spouse is not a borrower).

In Texas homestead lending, certain common and customary practices have developed because they interpret the requirements of the Texas Constitution conservatively. And because of the potentially extreme penalties associated with violating Texas home equity laws, the most conservative position has become the default for many lenders and investors with respect to home equity issues. For secondary market loans, an investor may require both spouses receive and sign the applicable 12-Day Notice on either a 50(a)(6) home equity loan or a 50(f)(2) refinance. Our default position is to recommend that both spouses receive and sign the 12-Day Notice for both loan types. In cases where the lender subsequently tells us that the NBS did not receive and/or sign the 12-Day Notice, we typically cite the constitutional language above and the Official Interpretation at 7 T.A.C. 153.45(4)(E) and advise that it is probably not a major issue—at least on a portfolio loan. On secondary market loans, investor requirements will control.

7 Texas Admin. Code §153.45:

(4) Refinance Disclosure. To meet the condition in Section 50(f)(2)(D), the lender must provide the refinance disclosure described in Section 50(f)(2)(D) to the owner on a separate document not later than the third business day after the date the owner submits the loan application to the lender and at least 12 days before the date the refinance of the extension of credit is closed.

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(E) One copy of the required refinance disclosure may be provided to married owners.

Failing to Deliver the 50(f)(2) 12-Day Notice Within Three Business Days of Application

Question: If the lender fails to deliver the 50(f)(2) 12-Day Notice to the borrower within three business days of application, what are the lender's options for correcting the error?

Answer: The answer depends on the reasons why the lender missed the three-business day deadline. There are several common causes for missing this deadline:

Scenario 1. At the time of application for refinance, the lender **did know** that the application was for a rate/term refinance of a home equity loan, but simply missed the three-business day deadline;

Scenario 2. At the time of application for refinance, the application didn't specify—and the lender **did not know**—that the loan being refinanced was a home equity loan; or

Scenario 3. At the time of application for refinance, the lender **did know** that the loan being refinanced was a home equity loan, but the application was not specifically for a refinance to a non-home equity loan (i.e. the borrower originally applies for another 50(a)(6) home equity, but later decides they would prefer a 50(f)(2) rate/term refinance of their existing 50(a)(6) home equity loan).

Answer to Scenario 1:

Neither the constitutional provisions nor the interpretative rules specifically state the ramifications of missing the deadline, nor has the question yet been tested in Texas courts. But the plain language of the Constitution indicates that if the lender closes the refinance as a 50(f)(2) rate/term without complying with all the requirements of Article XVI, 50(f)(2), the resulting lien will be invalid.

When the lender fails to provide the 50(f)(2) 12-Day Notice to the borrower within 3 business days of discovering that the loan was a refinance of a home equity loan, the lender has three options:

1. Proceed with the closing of the 50(f)(2) loan as-is, understanding that the lien could be invalidated if challenged. The risks of this approach are apparent.
2. Flip the loan to a 50(a)(6) refinance of the existing 50(a)(6) home equity loan (because Article XVI, Section 50(a)(6) of the Constitution allows the 50(a)(6) home equity version of the 12-Day Notice to be provided more than 3 business days after application) and refinance the existing loan into a new 50(a)(6) home equity loan.
3. Decline this loan application (or have the borrower withdraw the application), start over with a new application, and then provide the 50(f)(2) 12-Day Notice within 3 business days of receiving the new application.

Answer to Scenarios 2 and 3:

When Scenario 2 or 3 above is the reason the 50(f)(2) 12-Day Notice was not timely provided, Texas law permits the lender to have the borrower submit a new application or modify the current application to specifically request a refinance of a home equity loan to a non-home-equity loan. The application is

considered submitted upon receipt of the new or modified application. The lender must then provide the required 50(f)(2) 12-Day Notice not later than the third business day after the date the loan application is submitted/modified and at least 12 days before the date the 50(f)(2) refinance of the 50(a)(6) home equity lien is closed. See the portion of the below Administrative Code section 153.45 in bold.

Texas Constitution, Article XVI, Section 50(f)(2)(D):

*(f) A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a)(6) of this section, **may not be secured by a valid lien against the** homestead unless . . .*

*. . . (2) **all of the following conditions are met:** . . .*

*. . . (D) the lender provides the owner the following written notice on a separate document **not later than the third business day after the date the owner submits the loan application to the lender** and at least 12 days before the date the refinance of the extension of credit is closed:*

7 Texas Admin. Code §153.45:

A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a)(6) of Section 50, may not be secured by a valid lien against the homestead unless either the refinance of the debt is an extension of credit described by Subsection (a)(6) or (a)(7) of Section 50, or all of the conditions in Section 50(f)(2) are met.

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(4) Refinance Disclosure. To meet the condition in Section 50(f)(2)(D), the lender must provide the refinance disclosure described in Section 50(f)(2)(D) to the owner on a separate document **not later than the third business day after the date the owner submits the loan application** to the lender and at least 12 days before the date the refinance of the extension of credit is closed.

(A) Submission of a loan application to an agent acting on behalf of the lender is submission to the lender. A loan application may be given orally or electronically.

(B) **For purposes of Section 50(f)(2)(D), the application is submitted on the date the owner submits a loan application specifically for a refinance of a home equity loan to a non-home-equity loan. If the**

owner initially applies for another type of loan, then the application is considered submitted on the earliest of:

(i) *the date the owner modifies the application, orally or in writing, to specify that it is for a refinance of a home equity loan to a non-home-equity loan; or*

(ii) *the date the owner submits a new application specifically for a refinance of a home equity loan to a non-home-equity loan.*

Waiving the 50(f)(2) 12-Day Notice Waiting Period

Question: Is it possible to waive the 12-day waiting period on a refinance of a home equity loan to a rate/term refinance? If so, what are the circumstances in which the borrower may waive the waiting period?

Answer: Unfortunately, the Constitution does not include any exceptions to the 12-day notice requirement for a 50(f)(2) rate/term refinance. Although there are bona fide emergency exceptions for a 50(a)(6) home equity loan, they only apply to the one-year seasoning requirement and the one-day preclosing disclosure requirements. There are no equivalent exceptions applicable to 50(f)(2) rate/term refinance loans.

Texas Constitution, Article XVI, Section 50(f)(2) requires that a 50(f)(2) 12-Day Notice be **provided to the homestead owner within 3 business days of application**. However, 7 T.A.C. §153.45 clarifies that the lender **must deliver the refinance disclosure or place it in the mail no later than the third business day after the owner submits the loan application**. There is no signature requirement, though lenders do often require it by policy and investors may require it.

Inadvertently Providing the 50(a)(6) 12-Day Notice for a 50(f)(2) Refinance

Question: Are the 50(a)(6) and 50(f)(2) versions of the 12-Day Notice interchangeable? For example, if the borrower originally asks for a 50(a)(6) home equity loan and the 50(a)(6) 12-Day Notice is provided, but the borrower subsequently decides they would rather apply for a 50(f)(2) rate/term refinance, will the 50(a)(6) 12-Day Notice already provided satisfy the notice requirement for a 50(f)(2) rate/term refinance?

Answer: No, the lender cannot use the TX 50(a)(6) 12-Day Notice to satisfy the 50(f)(2) notice requirement; the lender must use the 50(f)(2) 12-Day Notice. In the scenario above where a 50(f)(2) 12-Day Notice must be subsequently provided, the lender must give the borrower another 12-day waiting period from the date the 50(f)(2) 12-Day Notice is provided.

For more detail on missing the three-business day deadline for the 50(f)(2) 12-Day Notice, please see the “Missed the Three Business Days for 12-Day Notice” FAQ above. The lender can have the borrower submit a new application or modify the current application to a request for a 50(f)(2) loan. Once that occurs, the

lender will then have to provide the required 50(f)(2) 12-Day Notice not later than the third business day after the date the loan application is submitted/modified.

Acknowledgement of Fair Market Value For a 50(f)(2) Rate/Term Refinance

Question: Is the lender required to have an *Acknowledgement of Fair Market Value* executed in connection with a 50(f)(2) rate/term refinance of home equity loan?

Answer: Unlike a 50(a)(6) Texas home equity loan, the Acknowledgment of Fair Market Value form is not an actual legal requirement for a 50(f)(2) rate/term refinance of a home equity. We include that form in our standard 50(f)(2) closing package, however, because the constitutional requirements for 50(f)(2) include the same 80% CLTV limitation that exist in section 50(a)(6) (see below). And like a 50(a)(6) home equity loan, the CLTV calculation for a 50(f)(2) loan is based on the “fair market value” of the homestead. In order to document the agreed-upon “fair market value” of the homestead to ensure that the CLTV does not exceed 80%, we recommend including an Acknowledgment of Fair Market Value form in a 50(f)(2) closing package.

Texas Constitution, Article XVI, Section 50(F)(2)(C) :

(f) A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a) (6) of this section, may not be secured by a valid lien against the_ homestead unless

. . .

. . . (2) all of the following conditions are met: . . .

*. . .(C) the refinance of the extension of credit is of a principal amount that when added to the aggregate total of the outstanding principal balances of all other indebtedness secured by valid encumbrances of record against the homestead **does not exceed 80 percent of the fair market value of the homestead** on the date the refinance of the extension of credit is made...*

Recording the 50(f)(2) Affidavit

Question: Is the lender required to record the “*Affidavit Acknowledging That Refinance of Home Equity Loan Complies with Texas Constitution, Article XVI, Section 50(f)(2) Requirements?*”

Answer: We recommend recording the 50(f)(2) affidavit. This affidavit was created pursuant to Article XVI, Section 50(f-1) of the Texas Constitution (see below), which provides that having the affidavit executed by the owner of the homestead or the owner’s spouse **conclusively establishes the validity of the refinance lien**. Our standard closing instructions specifically advise the settlement agent to have the affidavit recorded.

Texas Constitution, Article XVI, Section 50(f-1):

(f-1) A lien securing a refinance of debt under Subsection (f) (2) of this section is deemed to be a lien described by Subsection (a) (4) of this section. An affidavit executed by the owner or the owner's spouse acknowledging that the requirements of Subsection (f) (2) of this section have been met conclusively establishes that the requirements of Subsection (a) (4) of this section have been met.

Waiver of Appraisal for a 50(f)(2) Rate/Term Refinance

Question: Are appraisal waivers acceptable for 50 (f)(2) rate/term refinance loans?

Answer: Our position is that Section 50(f)(2) does not specifically require a formal appraisal to establish the fair market value of the homestead, subject to the 80% CLTV limitation for a 50(f)(2) refinance. Any requirement for a formal appraisal is driven primarily by secondary market requirements, rather than Texas law. Because a 50(f)(2) refinance (like 50(a)(6)) has an 80% CLTV limitation, however, it is important to have some basis for establishing the fair market value of the homestead. Accordingly, we include an Acknowledgment of Fair Market Value form in our standard 50(f)(2) closing package. But whether the agreed-upon fair market value is based on a formal appraisal, or some other method of valuation, is not material . . . at least from a constitutional perspective. For secondary market loans, we have seen some investors who will accept an appraisal waiver on a 50(f)(2) refinance. The lender should confirm with their underwriter or investor.

50(f)(2) Rate/Term Refinance Plus Improvements

Question: If an existing Texas home equity borrower wants to refinance into a 50(f)(2) rate/term refinance and also wants to finance improvements to the homestead, can a 50(f)(2) rate/term refinance loan be used to accomplish both purposes?

Answer: Yes. A 50(f)(2) rate/term refinance can be used to both refinance an existing Texas home equity loan and finance improvements to the homestead. If the borrower's goal is to have a construction phase followed by a permanent phase refinancing the construction loan and home equity into one loan, the borrower has the option of closing the refinance as a one-time close refinance plus improvements, with the home equity refinanced with the construction loan, and the P&I phase automatically beginning after the construction phase has ended.

Alternatively, the borrower might elect to apply for a construction-only draw period loan alone. Then, once construction is completed, refinance both the construction loan and the home equity loan into one 50(f)(2) rate/term refinance loan.

How to structure this is a decision for the borrower and the lender. If the lender intends to close as a refinance plus improvements (refinancing the home equity loan while extending improvement funds in

one phase), the lender should confirm with the title company that a clear policy of title insurance can be obtained.

Using a Renewal and Extension Exhibit with a 50(f)(2) Refinance Deed of Trust

Question: Does the deed of trust include a renewal and extension exhibit when a 50(a)(6) home equity is refinanced into a 50(f)(2) rate/term refinance? If so, what is the rationale?

Answer: It is a long-standing common and customary practice in Texas to include a renewal and extension exhibit with a refinance deed of trust. If originated in compliance with the requirements of Article XVI, Section 50(f)(2) of the Texas Constitution, a 50(f)(2) refinance converts a 50(a)(6) home equity lien into a valid 50(a)(4) refinance lien. Because a 50(a)(4) refinance utilizes a renewal and extension exhibit, we believe that rationale also applies to 50(f)(2) refinances. We created a renewal and extension exhibit in our system which is specific to a 50(f)(2) rate/term refinance transaction.

Financing Closing Costs Into a 50(f)(2) Rate/Term Refinance

Question: If the borrower wants to finance closing costs into a 50(f)(2) rate/term refinance, does this transform the loan into a 50(a)(6) Texas home equity since new money is being added over the actual payoff amount?

Answer: No. Texas Constitution, Article XVI, Section 50(f)(2) permits closing costs to be financed into the rate/term refinance without it being considered a Texas home equity loan.

Texas Constitution, Article XVI, Section 50(f)(2)(B):

(f) A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a)(6) of this section, may not be secured by a valid lien against the homestead unless either:

(1) the refinance of the debt is an extension of credit described by Subsection (a)(6) or (a)(7) of this section; or

(2) all of the following conditions are met:

(A) the refinance is not closed before the first anniversary of the date the extension of credit was closed;

(B) the refinanced extension of credit does not include the advance of any additional funds other than:

(i) funds advanced to refinance a debt described by Subsections (a)(1) through (a)(7) of this section; or

(ii) actual costs and reserves required by the lender to refinance the debt...

Financing an Initial Escrow Deposit with a 50(f)(2) Rate/Term Refinance

Question: If the lender is originating a 50(f)(2) rate/term refinance that will include an escrow account, can the initial escrow deposit be financed into the loan amount?

Answer: Yes, an initial escrow deposit may be financed into a 50(f)(2) rate/term refinance. Section 50(f)(2)(B)(ii) permits the lender to finance “actual costs **and reserves** required by the lender...” If the 50(f)(2) rate/term refinance is being underwritten to secondary market requirements, FNMA allows the Limited Cash-Out and Cash-Out Refinance options to include the financing of closing costs, points, and prepaid items.

Acceptable Uses

The following are acceptable uses for cash-out refinance transactions:

- paying off the unpaid principal balance of the existing first mortgage;
- **financing the payment of closing costs, points, and prepaid items. The borrower can include real estate taxes in the new loan amount. Delinquent real estate taxes (taxes past due by more than 60 days) can also be included in the new loan amount, but if they are, an escrow account must be established, subject to applicable law or regulation;**
- paying off any outstanding subordinate mortgage liens of any age;
- taking equity out of the subject property that may be used for any purpose;
- financing a short-term refinance mortgage loan that combines a first mortgage and a non-purchase-money subordinate mortgage into a new first mortgage or a refinance of the short-term refinance loan within six months.

Source: <https://www.fanniemae.com/content/guide/selling/b2/1.2/03.html>

Right of Rescission on a 50(f)(2) Rate/Term Refinance

Question: Does Texas law require a right of rescission for a 50(f)(2) rate/term refinance?

Answer: Unlike a 50(a)(6) Texas home equity loan, Texas law does not require a right of rescission on a 50(f)(2) rate/term refinance. Still, a right of rescission is required by federal Regulation Z on a 50(f)(2) rate/term refinance, unless the loan is exempt from rescission under Section 1026.23 of Regulation Z.

50(f)(2) Rate/Term Refinance Originated as a Government-Insured Loan

Question: Does the VA allow 50(f)(2) loans? Does FHA?

Answer: We are not aware of any VA or FHA rules that prohibit a 50(f)(2) from being originated as a VA-guaranteed or FHA-insured loan. This is unlike a 50(a)(6) home equity loan, which the Attorney General of Texas has opined cannot be originated as a government-insured loan. The primary issue with originating a VA or FHA 50(f)(2) rate/term refi is whether the 80% CLTV limitation for a 50(f)(2) works with those programs.

If the lender intends to sell the 50(f)(2) rate/term refinance loan in the secondary market, we recommend the lender confirm with the investor to make sure the investor agrees and will accept a VA or FHA 50(f)(2) rate/term refinance.