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# Term Sheet

## Credit is Due

### SONYMA Enhancements for Special Purpose Credit Programs

## Introduction

The State of New York Mortgage Agency (SONYMA) seeks to offer enhancements for participating lenders who have established a Special Purpose Credit Program (SPCP) that meets the priorities outlined below. The intention of this Term Sheet is to support our lending partners in their efforts to increase access to homeownership for mortgage applicants in previously underserved communities.

## Background

Although Special Purpose Credit Programs (SPCP) were established by regulation in the 1970s, the uptake since then has been minimal because of ambiguity regarding the interplay between Fair Housing Act protections and decisions to extend credit through an SPCP. Over the past several years, federal regulatory agencies, including the banking regulatory agencies, have taken affirmative steps to address this ambiguity by providing an advisory opinion, as well as guidance and statements of support for SPCPs. It is with this strong regulatory footing that major banks like The Bank of America are creating SPCPs to address the persistent and widening gap in access to the mortgage market and homeownership experienced by communities of color.

In 1976, Congress amended the Equal Credit Opportunity Act (ECOA) to expand protections against discrimination in credit decisions, and further specified that it would not be considered discriminatory for creditors to establish targeted credit assistance programs for certain purposes. Specifically, ECOA provides that refusal to extend credit by “any special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed in regulations by the Bureau” does not constitute prohibited discrimination.<sup>1</sup>

Regulation B implements the SPCP component of ECOA and is overseen by the Consumer Financial Protection Bureau (and previously, the Federal Reserve Board). Today, Regulation B specifies that a program qualifies as an SPCP:

“only if it was established and is administered so as [not to discriminate] against an applicant on any [prohibited basis]; however, all program participants may be required to share one or more common characteristics (for example, race, national origin, or sex) so

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<sup>1</sup> 15 U.S.C. § 1691(c).

long as the program was not established and is not administered with the purpose of evading the requirements of [ECOA] or this part.”<sup>2</sup>

On December 21, 2020, the Consumer Financial Protection Bureau (CFPB) issued an Advisory Opinion on special purpose credit programs to clarify the content that a for-profit organization must include in a written plan that establishes and administers a special purpose credit program under Regulation B, to which the Model Written Plan below adheres.<sup>3</sup> The plan must contain information that supports the need for the program, including:

- The class of persons that the program is designed to benefit;
- The procedures and standards for extending credit pursuant to the program;
- Either (i) the time period during which the program will last or (ii) when the program will be reevaluated to determine if there is a continuing need for it; and
- A description of the analysis the organization conducted to determine the need for the program.

A year later, the Department of Housing and Urban Development (HUD) released guidance from the Office of General Counsel further solidifying the legal basis for SPCPs, concluding that special purpose credit programs instituted in conformity with ECOA and Regulation B generally do not violate the FHA.<sup>4</sup>

Most recently, in February 2022, federal banking regulatory agencies including the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Department of Justice (DOJ), and the Federal Housing Finance Agency (FHFA) issued an Interagency Statement stating: “As creditors consider how they may expand access to credit to better address special social needs, the agencies encourage creditors to explore opportunities to develop special purpose credit programs . . . .”<sup>5</sup>

## Disparities in Mortgage Lending

As evidenced by public information provided from the Home Mortgage Disclosure Act (HMDA), covering 2019 – 2021, statewide mortgage application rejection rates for households of color (HOC) are significantly higher than the rejection rates for White households. There were 667,896 mortgage applications in New York State from 2019 – 2021 and the rejection rates were as follows:

	<b>Total</b>	<b>Rejected</b>	<b>Rejection Rate</b>
<b>HOC</b>	138,123	18,166	13.15%
<b>White</b>	302,282	25,950	8.58%

<sup>2</sup> 76 Fed. Reg. 79,442 (Dec. 21, 2011)

<sup>3</sup> <https://www.federalregister.gov/documents/2021/01/15/2020-28596/equal-credit-opportunity-regulation-b-special-purpose-credit-programs>

<sup>4</sup> [https://www.hud.gov/sites/dfiles/GC/documents/Special\\_Purpose\\_Credit\\_Program\\_OGC\\_guidance\\_12-6-2021.pdf](https://www.hud.gov/sites/dfiles/GC/documents/Special_Purpose_Credit_Program_OGC_guidance_12-6-2021.pdf)

<sup>5</sup> <https://www.fdic.gov/news/financial-institution-letters/2022/fil22008a.pdf>

Statewide	594,541	54,841	9.22%
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SONYMA defines HOC as the following races and ethnicities:

Ethnicity:

- Hispanic or Latino

Race:

- American Indian or Alaska Native, with stated principal or enrolled tribe;
- Asian American;
- Black or African American; and
- Native Hawaiian or Other Pacific Islander

Note: Eligibility is limited to applicants who are part of communities with racial/ethnic origins that have been subject to historic and ongoing disparate and discriminatory treatment in mortgage lending within the United States. Applicants may be deemed ineligible based on the lack of documented disparate treatment against a specific national origin.

## Credit is Due Enhancements:

SONYMA participating lenders who wish to participate in this program will have access to the following enhancements. These benefits may be paired with either of SONYMA’s core loan programs-Achieving the Dream or the Low Interest Rate program.

1. **Access to Give Us Credit Underwriting Standards (GUC):** For applicants who have limited credit histories or other challenges regarding credit history, the Give Us Credit (GUC) product offers many features aimed to overcome barriers to first-time homeownership. The GUC underwriting criteria are attached as Exhibit A. These guidelines may only be used on loans that come through the Credit is Due program.
2. **Mortgage Origination Fee Bonus:** Lenders who submit a qualifying loan via the SONYMA SPCP loan will receive an additional 0.5% increase on top of the standard SONYMA Seller Paid Points.
3. **Enhanced Down Payment Assistance Loan and/or Interest Rate Reduction:** Our enhanced Down Payment Assistance Loan product known as eDPAL will only be available under the Credit is Due program (see program details attached here as Exhibit B). Eligible applicants may utilize eDPAL alone or in combination with an Interest Rate Reduction option in accordance with the following waterfall:

Program Benefit Applied	Waterfall Result
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Step 1	Enhanced Down Payment Assistance until primary mortgage (1st lien) amount is at or below 80% LTV - up to \$30,000. (Closing costs and/single premium PMI may be included. All other subsidies must be applied first.) Applicants will not be charged the standard interest rate bump on their primary mortgage.	If applicant <i>does not achieve</i> qualifying ratio, proceed to Step 2.	If applicant <i>achieves</i> qualifying ratio, benefit calculation is complete.
Step 2	Up to 2.0% <sup>6</sup> interest rate reduction off prevailing SONYMA rate.	If applicant <i>does not achieve</i> qualifying ratio, loan declined as submitted.	If applicant <i>achieves</i> qualifying ratio, benefit calculation is complete.

## Eligibility Requirements

1. SONYMA participating lenders who have established an SPCP designed to address disparities experienced by HOCs in lending and homeownership. Lenders participating in CID, must continue to monitor program impact on lending disparities. SONYMA may request reporting on program impact annually.
2. Lenders should submit SPCP Written Plans for review prior to submitting SPCP loans to SONYMA
3. Loan applications must include applicant responses to the HMDA race and ethnicity disclosure questions.

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<sup>6</sup> Actual interest rate reduction will be determined based on qualifying ratios.

## EXHIBIT A

# Give Us Credit Program

ALTERNATIVE CREDIT				
<b>Interest Rate:</b>	SONYMA Low Interest Rate, Achieving the Dream Program rate, or Credit is Due discounted rate, as applicable.			
<b>Loan Term:</b>	30 years			
<b>Borrower Points:</b>	None			
<b>Rate Lock Period:</b>	120 days for existing properties 240 days for new construction properties			
<b>Allowable Fees:</b>	As with traditional SONYMA financing, Lenders may charge up to \$900 in ancillary fees.			
<b>Eligible Borrowers:</b>	Owner occupied only. Borrowers must be first-time home buyers, a US military veteran (excluding those dishonorably discharged) or be purchasing a home in a federally designated targeted area. Non-occupant co-borrowers permitted if occupying co-borrower's DTI ratio does not exceed 60%.			
<b>Loan Purpose:</b>	Purchase or Purchase Rehabilitation Mortgage.			
<b>Maximum Household Income:</b>	Standard SONYMA Income Limits (see <a href="https://hcr.ny.gov/preparation-eligibility">https://hcr.ny.gov/preparation-eligibility</a> )			
<b>Eligible Property Types,</b>	1 to 4 units, Cooperatives, condominiums and manufactured housing			
<b>Loan Limits, Max LTVs, Minimum Borrower Contribution:</b>	<b>Property Type</b>	<b>Loan Limit</b>	<b>Max LTV</b>	<b>Minimum Contribution</b>
	Single Family & Condos	\$726,200	97%	1% of Purchase Price
	2 Family Units	\$726,200	97%	1% of Purchase Price
		\$726,201 - \$800,000	95%	1% of Purchase Price
	Cooperatives	\$800,001 - \$1,136,079	90%	3% of Purchase Price
		\$726,200	95%	3% of Purchase Price
	3-4 Family Units	\$726,201 - \$806,590	90%	3% of Purchase Price
		\$800,000	90%	3% of Purchase Price
	\$800,001 - \$1,706,200	90%	5% of Purchase Price	
<b>Maximum CLTV:</b>	None.			

<b>Eligible Communities:</b>	Must be located in New York State.
<b>Purchase Price Limits:</b>	Standard SONYMA Limits (see <a href="https://hcr.ny.gov/preparation-eligibility">https://hcr.ny.gov/preparation-eligibility</a> ).
<b>Pre-Closing Homebuyer Education &amp; Counseling Requirements:</b>	Required for all borrowers. Landlord counseling required for all 2-4 family properties. For more information, see <a href="https://hcr.ny.gov/preparation-eligibility#homeownership-counseling">https://hcr.ny.gov/preparation-eligibility#homeownership-counseling</a> .
<b>Credit Underwriting:</b>	<p>Standard SONYMA Credit Underwriting applies, except as described below. Certain restrictions may apply. Loan applications will be evaluated on their overall layers of risk.</p> <ul style="list-style-type: none"> <li>• Tradeline Requirements: <ul style="list-style-type: none"> <li>○ 3 trade lines with 12 months of documented payment history; or</li> <li>○ 12 months of rental history (may be verified using VOR from a management company, Venmo, PayPal, money orders, etc.; no private VORs); or</li> <li>○ No tradelines and no rental history is acceptable if 35/40 max DTI and 2 months reserves.</li> </ul> </li> <li>• Late Payments on Tradelines: <ul style="list-style-type: none"> <li>○ Up to 1 x 60 if 12 months with on-time rental payments or 1 month of reserves; or</li> <li>○ Up to 2 x 30 if 12 months with on-time rental payments or 1 month of reserves.</li> </ul> </li> <li>• Tradelines may be paid using a credit card if proven that it is paid off monthly.</li> <li>• 2 years from discharge or 4 years from dismissal of bankruptcy.</li> <li>• 3 years from foreclosure (or 1 year in the event of a catastrophic illness, accident, or other non-repeatable tragedy with no prior late payments prior to the hardship).</li> <li>• Collection accounts: <ul style="list-style-type: none"> <li>○ Medical collection accounts do not need to be paid.</li> <li>○ Accounts less than \$250 do not need to be paid. The aggregate of those accounts cannot exceed \$1,000.</li> </ul> </li> </ul>
<b>Reserve Requirements:</b>	<p>Standard SONYMA Reserve Requirements apply, except as described below. Certain restrictions may apply. Loan applications will be evaluated on their overall layers of risk.</p> <ul style="list-style-type: none"> <li>• 2 months reserves for 2-4 family properties.</li> <li>• 1 month reserves permitted with 12-month rental history and existing tenants in place for 6 months.</li> </ul>
<b>Seller Concessions:</b>	<p>Standard SONYMA Seller Concessions apply, except as described below. Certain restrictions may apply. Loan applications will be evaluated on their overall layers of risk.</p> <ul style="list-style-type: none"> <li>• 3% for &gt;90% (6% permitted if no DPAL and 12 months rental or 3 trades with 12-month history); or</li> <li>• 6% if &lt;=90%.</li> </ul>

<p><b>Eligible Assets:</b></p>	<p>Standard SONYMA Eligible Assets apply, except as described below. Certain restrictions may apply. Loan applications will be evaluated on their overall layers of risk.</p> <ul style="list-style-type: none"> <li>• After borrower’s minimum cash contribution requirement is met, cash on hand permitted of 50% of monthly qualifying income, up to \$5,000. Cash on hand is defined as un sourced/unseasoned funds.</li> <li>• Loans from family members permitted for down payment and closing costs if borrower has met 1% requirement (payment must be included in ratios).</li> <li>• Use of Non-Traditional Shared Savings Arrangement payouts prior to closing for reserves with documented contribution of 50% of payout. These arrangements include sou-sou, pardna, tanda, hui, ayuuto, cundinas, pandeiros, eMoneyPool.com, PayPal, MoneyPools, etc.</li> <li>• Gift of Equity: <ul style="list-style-type: none"> <li>○ Accepted from family members or estate of relative, with documented 12-month history of borrower’s residency at subject property.</li> <li>○ Gift of Equity accepted from immediate family members, regardless of borrower’s residency.</li> <li>○ Borrowers must continue to meet SONYMA’s minimum contribution requirement unless the gift of equity results in an LTV of 80% or less.</li> </ul> </li> </ul>
<p><b>Eligible Income:</b></p>	<p>Standard SONYMA Eligible Income guidelines apply, except as described below. Certain restrictions may apply. Loan applications will be evaluated on their overall layers of risk.</p> <ul style="list-style-type: none"> <li>• 12 months overtime may be used if overtime is common to the profession (e.g., nurse, municipal employee, etc.).</li> <li>• Boarder Income: <ul style="list-style-type: none"> <li>○ Can be up to 30% of qualifying income.</li> <li>○ Documentation of shared residency for the past 12 months.</li> <li>○ Documentation of boarder’s rental payments for the past 12 months. If unable, no more than 50% of the boarder’s monthly income (which must be documented) can be used for qualifying.</li> <li>○ Borrower should have demonstrated an ability to pay rent in an amount within 25% of their proposed mortgage payment for 12 months.</li> </ul> </li> <li>• Accessory Unit Income: <ul style="list-style-type: none"> <li>○ An accessory unit is a separate dwelling (as identified by the appraisal) with a kitchen and bathroom.</li> <li>○ Income generated from an accessory unit can be considered as rental income in accordance with our standard rental income guidelines.</li> <li>○ Landlord counseling and 25% vacancy factor required.</li> <li>○ Permitted if appraisal provides market rent calculation on rental income provided.</li> </ul> </li> </ul>

<b>PMI:</b>	PMI is required when LTV exceeds 80% of the appraised value. Loans are underwritten and insured by SONYMA Mortgage Insurance Fund.
<b>Post-Closing Early Delinquency Intervention Counseling Requirement:</b>	Required in the event of a delinquent (1 x 60) mortgage payment post-closing.

<b>APPLICATION PROCESS</b>
<ol style="list-style-type: none"> <li>1. Borrowers must be under contract to purchase a home in an eligible county.</li> <li>2. Borrowers must apply through a SONYMA Participating Lender, participating in the Credit is Due program.</li> <li>3. Loan must be underwritten and approved by the SONYMA Mortgage Insurance Fund (MIF).</li> <li>4. Borrowers meeting requirements for SONYMA traditional bond programs should be provided with applicable program disclosures at application.</li> </ol>

## EXHIBIT B

# Enhanced Down Payment Assistance Loan (eDPAL)

PROGRAM TERMS	
<b>Interest Rate</b>	0% charged on eDPAL funds. No increase in primary loan interest rate, regardless of program.
<b>Recapture Liability</b>	Yes. eDPAL is forgiven in equal monthly installments over the first 10 years (120 months) of borrower occupancy. Balance subject to recapture.
<b>Borrower Eligibility</b>	Borrowers must be a first-time homebuyer, other than dishonorably discharged US military veteran, or purchasing a home in a federally designed targeted area.
<b>Eligible Loan Purpose</b>	To assist with down payment, closing costs or single premium private mortgage insurance. Funds may not be used to buy-down or extend reserved interest rate on primary loan.
<b>Mortgage Terms:</b>	<ul style="list-style-type: none"> <li>• “Soft” second mortgage:               <ul style="list-style-type: none"> <li>○ 10-year term.</li> <li>○ Requires no monthly payment.</li> <li>○ Must be in second lien position.</li> <li>○ Bears no interest.</li> </ul> </li> <li>• Subject to possible recapture.</li> </ul> <p><i>Applicants who qualify under standard SONYMA guidelines, are not eligible for Give Us Credit.</i></p>
<b>Loan Amount Calculation</b>	<p>Applicant’s assets, with the exception of 2 months PITI <i>or</i> \$10,000, and all other subsidies must be applied to transaction first. eDPAL can then be used to pay down payment, and closing costs until purchase money mortgage amount is 80% LTV, and</p> <ul style="list-style-type: none"> <li>• up to \$30,000 if total DTI is at or above 40%; or</li> <li>• \$15,000 if applicant total DTI is below 40%.</li> </ul> <p>Funds may also be used to pay single premium MI for transactions over 80% LTV.</p> <p>Ex. 1: \$100,000 purchase price + \$6,000 closing costs (no other subsidies)            eDPAL amount \$26,000 (\$6,000 for closing costs and \$20,000 down payment to get to 80% LTV)</p> <p>Ex. 2: \$100,000 purchase price + \$6,000 closing costs (\$12,000 in other subsidies)            eDPAL amount \$14,000 (\$12,000 other subsidies applied to closing costs and \$6,000 down payment THEN \$14,000 in eDPAL applied to down payment to reach to 80% LTV)</p>
<b>Eligible Property Characteristics</b>	1-4 family home, condominium, cooperative, or manufactured home in New York State
<b>Purchase Price Limit</b>	Standard SONYMA limits apply

<b>Income Limits</b>	Low Interest Rate (LIRP) or Achieving the Dream Program (ATD) limits, as applicable. (See <a href="https://hcr.ny.gov/preparation-eligibility">https://hcr.ny.gov/preparation-eligibility</a> )
<b>Subordinate Financing</b>	SONYMA eDPAL must be in 2 <sup>nd</sup> lien position. Can be combined with other acceptable subordinate financing types: <ul style="list-style-type: none"> <li>• Government Agencies</li> <li>• Non-Profit Agencies</li> <li>• Other organizations or private individuals as approved by SONYMA.</li> </ul> Other financing must be subordinate to the SONYMA eDPAL unless a Parity Agreement is provided.
<b>Maximum Lender Compensation and Allowable Fees</b>	All loans with an eDPAL purchased by SONYMA will be funded at an additional 0.50% of the loan amount. NYS State Mortgage Tax and recording fees apply to the eDPAL second mortgage.
<b>Pre-Closing Homebuyer Education &amp; Counseling Requirements</b>	All applicants must complete homebuyer education before loan approval. Counseling from a HUD-approved homebuyer counseling agency is preferred but web-based counseling from a PMI company is acceptable.
<b>Post-Closing Early Delinquency Intervention Counseling Requirements</b>	Required in the event of a delinquent mortgage payment.
<b>Owner Occupancy</b>	Required for all loans.

<b>PROGRAM STRUCTURE</b>	
<b>Financing Structure</b>	SONYMA Bond
<b>Loan Process</b>	<ul style="list-style-type: none"> <li>• See applicable 1<sup>st</sup> Lien SONYMA Bond program term sheet.</li> <li>• eDPAL to be entered as alternate subsidy type in SONYMA Express.</li> </ul>
<b>Required Application Forms</b>	<ul style="list-style-type: none"> <li>• DPAL Recapture Notification or NRP/DPAL Recapture Notification</li> <li>• DPAL Enforcement Note and Mortgage or NRP/DPAL Enforcement Note and Mortgage</li> </ul>

**Note: SONYMA and its partners continue to discuss the above terms. While we do not expect major deviations from these terms, they are subject to change.**