

## Non-U.S. Citizens

### Eligibility Requirements for Non-U.S. Citizen Borrowers

Non-U.S. citizens who are lawful permanent or non-permanent residents of the United States are eligible for financing under the same terms that are available to U.S. citizens. Non-U.S. citizen without lawful residency status in the United States are not eligible.

Individuals that have been accepted under the Deferred Action for Childhood Arrivals (DACA) AKA "Dreamers" are only classified as "lawful" by Fannie Mae **and effective January 19, 2021 by FHA**. They are not eligible under any other loan program.

Note: For USDA and certain specialty programs, follow the program-specific guidelines for eligible Non-U.S. citizen borrowers.

### Borrower Residency Status

Borrower designation may include:

- Permanent Resident
- Temporary Resident or
- Non-Immigrant (students, visitors)

### Identification Requirements

Non-U.S. citizens must provide non-expired, official identification to confirm and document the applicant's immigration status. Documentation must include:

- Identification type and number
- Place of issuance
- Issue and expiration dates

Due to the changing nature of temporary protected status designation for certain countries visa eligibility may be questioned. As long as the VISA or EAD remains active within one (1) year of the application date, we may proceed - unless it is identified on the [USCIS website](#) as ineligible.

### Definitions and Documentation Requirements

Refer to the table below for specific definitions and documentation requirements for non-U.S. citizen designations:

Designation	Also Referred to as	Definition	Documentation Requirements
Permanent Resident	Lawful Permanent Resident  OR	A foreign national that has been officially granted immigration benefits, which includes permission to permanently reside and take employment in the U.S.	Permanent Resident Card with photo (USCIS Form I-551, Category R); also known as a green card  (Green cards states "Do Not Duplicate" for the purpose of replacing the original card. U.S. Citizenship and Immigration

	Green Card Holder	<p>The borrower:</p> <p>Must maintain permanent resident status</p> <p>AND</p> <p>Can be removed from the U.S. if certain conditions of this status are not met.</p> <p>Evidence of lawful permanent residency is an issued Permanent Resident Card (Green Card) by USCIS</p>	<p>Services (USCIS) allow photocopying of the green card.)</p> <p>OR</p> <p>Passport with photo (front and reverse) and I-551 stamp and date</p> <p><i>Note:</i> If the Green Card is pending extension or renewal, a documentation alternative is to provide a Permanent Resident Case Status check performed using the individual's USCIS receipt number. The result may be used to evidence Permanent Resident status if the corresponding documentation of the green card application receipt number is provided that links the borrower to the case status. Most are valid for 10 years and are eligible for renewal within 6 months of expiration</p>
Non-Permanent Resident; Temporary Resident or Non-immigrant	<p>Non-Permanent Resident</p> <p>OR</p> <p>Lawful Non-Permanent Resident</p>	<p>A foreign national who has been officially granted immigration benefits, which includes permission to temporarily reside and take employment in the U.S.</p> <p>The visa holder must maintain the temporary U.S. resident status and can be removed from the U.S. if certain conditions of this status are not met (not including visa expiration).</p> <p>Evidence of preliminary permission of a lawful non-immigrant is validated by issuance of a visa by a consulate outside of the U.S.</p> <p>USCIS must approve the final petition.</p> <p>Department of Homeland Security issues an Arrival/Departure Record (I-94) evidencing the individual's duration of stay</p>	<p>Conventional loans:</p> <p>Passport with photo</p> <p>OR</p> <p>Visa (if expired, requires a non-expired Arrival/Departure Record (I-94) or Notice of Action approval (I-797) with an I-94 Arrival/Departure Record embedded on the Notice of Action</p> <p>OR</p> <p>USCIS Employment Authorization Document (EAD) (I-766), when applicable or when qualifying a non-passive income source.</p> <p><b>FHA only:</b></p> <p>Copy of the Employment Authorization Document (EAD) Card is required</p>

## Employment Authorization Document

A current (non-expired) Employment Authorization Document (EAD) issued by the USCIS may be provided in lieu of a Visa. The EAD card category must support lawful residence status. EAD cards issued based on “deferred action” does not grant lawful status; only lawful permanent or non-permanent residents of the United States are eligible.

Refer to the [EAD Matrix](#) for specific requirements.

If the EAD or visa expires within one year, the following must be provided:

- Evidence of previous EAD/visa renewal(s) must be documented, or
- If there are no prior EAD/visa renewals, the likelihood of renewal must be determined based on the information from the USCIS and EAD/Visa type.

Note: At the time of closing, all documentation must be official and valid – no exceptions.

## Review by VanDyk

For work visa types that require review and approval, follow your channel escalation path and include the following information:

- Loan number and Borrower name in the email subject line
- Images of all relevant documentation, such as:
  - Passport
  - Visa
  - I-94; Arrival/Departure Record
  - Any other supporting documentation

## Ineligible Designations

The following non-U.S. citizens are not eligible borrowers except for DACA, which is eligible only for Fannie Mae Conventional Loans:

Other Non-Immigrant (Non-Resident Alien)	A legal status used for a foreign national who temporarily resides and may work in the U.S. legally for a specific purpose and time with proper identification documentation (passport and visa). This includes (but is not limited to) visa types B-1, B-2, B-1/B-2, BCC, C-1, C-2, C-3, C-4, C-1/D, D-1, D-2, F-1, F-2, F-3, H-2, H-2A, H-2B, H-3, H-4, J-1, J-2, K-2, K-4, M-1, M-2, M-3, P-4, Q-1, Q-2, R-2, S-7, TD, U-3, V-2, WB and WT
Undocumented Foreign National (Unlawful Non-Resident Alien)	A status used for a foreign national individual who resides and/or works in the U.S. illegally and lacks proper identification documentation.
Deferred Action Status (DACA)	Status given to foreign nationals under the Deferred Action for Childhood Arrivals (DACA). DACA designation can be determined by a category notation of C-33 on the EAD and is only eligible for <b>FHA and</b> Fannie Mae Conventional financing.

Defector	An individual that pursues allegiance to the U.S. after renouncing his or her allegiance to a foreign country.
Withholding of Removal or Withholding of Deportation	A lawful designation where reasonable fear of persecution or torture exists in the individual's home country. Withholding of Removal/Deportation designation can be determined by the visa holder's I-94 or written grant and a category notation of A-10 or A-11 on the EAD.
Diplomatic Immunity	<p>Lawful designation that permits a diplomat free passage throughout the U.S. The holder's visa will reflect Diplomatic Immunity status. Due to the inability to compel payment or seek judgment, transactions with individuals who are not subject to U.S. jurisdiction are not eligible.</p> <p>Verification the borrower does not have diplomatic immunity can be determined by reviewing the visa, passport or the <a href="#">U.S. Department of State's Diplomatic List</a>.</p>
Temporary Protection Status (TPS) (Allowed with approved exception)	Nationals of certain countries who are temporarily in the U.S., and who are unable to safely return to their home country due to dangerous conditions, either environmental or political. TPS designation can be determined by the visa holder's I-94 and a category notation of A12 on the EAD.
Politically Exposed Person (PEP)	Current or former official in a non-U.S. government body, including those in the executive, legislative, administrative, military and judicial branches (whether elected or not), with substantial authority over policy, operations, or the use of government-owned resources.

### Co-Borrower or Spouse Considerations

The following requirements apply to legal non-U.S. citizens who apply with or are married to individuals with different legal statuses:

- If status differs between applicants (for example, a U.S. citizen and a Non-Permanent Resident), follow the more restrictive U.S. citizen product or program requirements, if applicable.
- Marriage to a U.S. citizen does not eliminate requirements to verify the non-U.S. citizen legally resides in the U.S.

### Individual Taxpayer Identification Number (ITIN)

Individuals with an ITIN are eligible for financing under Fannie Mae Conventional loans only. Input the number in the social security box in Encompass. The AUS must reflect an Approve/Eligible. Since U.S. Citizens qualify for a social security number the use of an ITIN would not be acceptable.

The ITIN is a tax processing number issued by the IRS in 1996 to ensure people – including unauthorized immigrants – pay taxes even if they do not have a Social Security number and regardless of immigration status. ITINs are not SSNs. The ITIN is a nine-digit number that always begins with the number 9 and has a 7 or 8 in the fourth digit.

People who do not have a lawful status in the United States may obtain an ITIN. Dependents or spouses of a US Citizens or lawful permanent residents, and individuals participating in DACA may be lawfully in the country and must pay taxes but *may not* be eligible for SSN and may obtain an ITIN.

Genworth is the only PMI company currently providing mortgage insurance for borrowers with an ITIN, and they require there be at least one borrower on the loan that has a valid Social Security number.

ITINs do **NOT** provide legal status or work authorization

ITIN does **NOT** provide legal immigration status and cannot be used to prove legal presence in the United States.

ITIN does **NOT** provide work authorization and cannot be used to prove work authorization on an I-9 form.

## Expired Visa Requirements

Fannie Mae and Freddie Mac

A borrower with an expired visa may be considered, subject to each of the following:

- Visa classification is eligible
- Evidence that the borrower has submitted an application for an extension of the visa or green card. Documentation includes, but is not limited to:
  - USCIS Form I-797 (issued when an application or petition is approved).
  - USCIS Form I-797C or I-797E (must not state that the application has been declined).
  - Application for extension of current visa (USCIS Form I-539 or equivalent) or copy of application for green card (USCIS Form I-485 or equivalent) and electronic verification of receipt from the USCIS web site.
  - If the borrower is sponsored by the employer, the employer may evidence that they are sponsoring the visa renewal.

## Verification of Social Security Number

When you have a borrower that is issued a Social Security number after the date of birth, use the following as a guide as to what is required:

- If DOB is issued prior to the 1980's and the gap is reasonable (1-2 years) (ie. Working age), nothing is required.
- If DOB is issued after 1980 and the gap is reasonable (1-2 years), only a SSN Verification is required.
- If DOB and issuance of SSN is out of scope, (i.e. 10 years or more), Ask for proof of Citizenship.