

Lender Guidance on BSA/AML-Related Guide Update

Pursuant to the Financial Crimes Enforcement Network’s (FinCEN) Final Rule effective April 2014, Fannie Mae is defined as a “financial institution” under the Bank Secrecy Act (BSA). As such, Fannie Mae has a formal anti-money laundering (AML) program in place and files Suspicious Activity Reports (SARs) with FinCEN. As an approved Multifamily Lender, you play an important role in supporting Fannie Mae’s AML Program. Your due diligence and monitoring activities help Fannie Mae detect activity that may involve mortgage fraud or money laundering.

This guidance provides an overview of the Guide Update effective August 1, 2023. This Guide Update does not contain new requirements; rather Fannie Mae is providing expanded guidance and reinforcing existing expectations. This includes providing specific red flags of potential mortgage fraud and money laundering that you are expected to be aware of and alert to throughout the lifecycle of the loan. You continue to be required to have sufficient internal controls and processes in place to identify and escalate potentially suspicious activity to Fannie Mae.

Expectations of Multifamily Lenders

You are expected to establish and maintain effective processes, procedures, and controls (including employee training) to effectuate the identification and escalation of possible mortgage fraud or money laundering involving the transaction throughout the life of the Mortgage Loan. This includes appropriate due diligence on all Borrowers, Key Principals, Guarantors, and Principals. These expectations are outlined in Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 308: Compliance, and are required regardless of whether you are independently subject to the requirements of the BSA. The presence of one or more red flags that cannot be reasonably explained, as discussed below, must be escalated to Fannie Mae. As always, any party appearing on Office of Foreign Asset Control (OFAC) sanctions lists, or other applicable blocked parties’ lists (i.e., FHFA’s Suspended Counterparty List) are prohibited from engaging in any business dealing with Fannie Mae.

Identifying Red Flags of Potential Mortgage Fraud or Money Laundering

All members of your staff engaged in Multifamily Mortgage Loan transactions with Fannie Mae must be aware of and alert to red flags of potential mortgage fraud and money laundering. The red flags outlined below are also located in DUS Navigate. When a red flag is encountered, you must consider all relevant facts and undertake additional inquiry, as necessary, to determine if the existence of the red flag can be reasonably explained (see “Items for Consideration” in the table below).

Category	Red Flags	Items for Consideration
Mortgage Fraud		
Appraisals	Data is inconsistent within the Appraisal, or is inconsistent with other underwriting data, current market conditions or comparable data.	<ul style="list-style-type: none"> Is there a reasonable explanation for the inconsistent data? Does the Sponsor attempt to provide “new” or “updated” data without explanation for the difference? Does the appraiser’s choice of comparables seem reasonable or explainable? Are additional “red flags” present, and if so, can they be reasonably explained?
	Close relationship between the appraiser and Sponsor.	
	Property’s appraised value is significantly greater than the value of comparable properties, or the appraiser selects inappropriate comparable properties.	
Financial Statements and Financing Structure	Income or expenses differ significantly from comparable properties.	<ul style="list-style-type: none"> Is there a reasonable explanation for income and expenses to differ from comparable properties and/or to have unexpected changes?
	Unexplained income or expense variances (e.g., sudden decline in operating income or increases in expenses after funding).	
	Missing or late financial statements.	



	Multiple successive cash-out refinances across a Sponsor’s portfolio.	<ul style="list-style-type: none"> • Are missing/late financial statements a one-off, explainable event – or part of an ongoing pattern? • Could the successive cash-out refinances be considered excessive when compared to other similar transactions with other Sponsors? • Are additional “red flags” present, and if so, can they be reasonably explained?
Property Condition and Inspections	Property Condition Assessment results are inconsistent with expectations for a property of the same age, use, and profile.	<ul style="list-style-type: none"> • Is there a reasonable explanation for inconsistent Property Condition Assessment results?
	Property Condition Assessment results are inconsistent with attached photos or other underwriting data.	<ul style="list-style-type: none"> • When questioned about the Property Condition Assessment results, does the Sponsor attempt to provide “corrected” supporting documentation?
	Missing or late inspections.	<ul style="list-style-type: none"> • Are missing/late inspections a one-off explainable event, or part of an ongoing pattern?
	Tenant complaints about Property condition that are inconsistent with representations about the Property condition, improvements or capital expenses reported.	<ul style="list-style-type: none"> • Are tenant complaints consistent with the Property Condition Assessment results? • Are additional “red flags” present, and if so, can they be reasonably explained?
Other	Sponsor litigation is not adequately addressed.	<ul style="list-style-type: none"> • What is the nature of the litigation? Is it fraud related? Why has it not been addressed?
	Documents appear to be altered.	<ul style="list-style-type: none"> • Is there a reasonable explanation for the appearance of altered documents? • Are additional “red flags” present, and if so, can they be reasonably explained?
Money Laundering		
Counterparty to the Transaction	Counterparty provides suspicious identification or contact information.	<ul style="list-style-type: none"> • Is the individual / entity known in the industry?
	Counterparty asks/exhibits concern about Fannie Mae’s Anti-Money Laundering obligations and/or inquires if a certain transaction will be reported.	<ul style="list-style-type: none"> • Is the individual’s / entity’s involvement consistent with their background and/or previous transactions?
	Counterparty is domiciled outside of the United States.	<ul style="list-style-type: none"> • Is the individual willing to entertain questions about, and provide supporting documentation outlining, the beneficial ownership of the shell companies?
	Counterparty is a shell company, and the beneficial owners are not readily apparent.	<ul style="list-style-type: none"> • Are additional “red flags” present, and if so, can they be reasonably explained?
	Counterparty has not typically engaged in the multifamily business, and has no prior experience with multifamily transactions.	
Funds	Funds used in the transaction originate from a foreign jurisdiction.	<ul style="list-style-type: none"> • Is there a reasonable explanation for the deviation in funds expected versus received?
	Borrower funds used in the transaction originate from multiple sources, or from unrelated third parties.	



	Funds wired at closing are materially more than would be expected based on the closing statement.	<ul style="list-style-type: none">• Is there a reasonable explanation for payments coming from multiple sources and/or foreign jurisdictions?• Are additional “red flags” present, and if so, can they be reasonably explained?
Change of Ownership	Unexpected or unapproved change of an LLC Borrower's ownership shortly after funding.	<ul style="list-style-type: none">• Is there a reasonable explanation for the change, and why it was unapproved?• Is the new ownership straightforward, or overly complex?• Does the new ownership exhibit any of the counterparty red flags listed above?

Escalating to Fannie Mae

Should you encounter a red flag that cannot be reasonably explained, this information must be escalated to Fannie Mae via <https://fims.my.salesforce-sites.com/MortgageFraudReport>. This applies even to transactions that ultimately do not move forward. If the red flag escalation occurs during the origination or underwriting process, you must contact Lender Risk Management for guidance on how to proceed. When escalating information regarding possible fraud or other suspicious activity, do not inform the Borrower, Borrower affiliate(s), Key Principal, Principal, or Guarantor of your escalation. Furthermore, do not provide Fannie Mae with any information that would reveal the existence of a Suspicious Activity Report you independently file on the activity in question.

Questions

Should you have any questions on this expanded guidance, or the specific AML-related Guide Update, please contact the Fannie Mae Deal Team or lender_risk_management@fanniemae.com. Thank you for helping Fannie Mae fulfill its AML obligations and combat financial crime in the multifamily mortgage market.