Fannie Mae®

Multifamily Selling and Servicing Guide

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Chapter 3 Borrower, Guarantor, Key Principals, and Principals

Section 301 Generally

☑ Requirements

You must:

- perform a risk assessment of the Borrower, Guarantor, Key Principals, and Principals based solely on objective credit standards;
- for any Sponsor, Key Principal, Guarantor, or Person who owns a Controlling Interest in the Borrower, Key Principal, or Guarantor, search the internet for
  - any negative press,
  - current or prior lawsuits, and/or
  - fair housing violations or other sanctions;
- ensure all:
  - Potential Red Flags for Mortgage Fraud and Other Suspicious Activity were evaluated; and
  - unresolved red flags were reported per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 310: Compliance; and
- document all due diligence findings in the Transaction Approval Memo.

Prohibited practices include:

- basing the risk assessment on any characteristic protected by any fair housing or fair lending law, including
  - race,
  - color,
  - religion,
  - sex,
  - handicap,
  - familial status, or
  - national origin of the prospective
    - Borrowers,

- Guarantors,
- Key Principals,
- Principals,
- Property occupants, or
- residents of the Property's neighborhood; or

- using
  - unsupported assumptions,
  - personal opinions, or
  - unsupported perceptions.

You must:

- complete a credit review by analyzing information about the Borrower's, Key Principals', and Guarantors'
  - organizational structure,
  - multifamily business experience and qualifications,
  - general credit history, and
  - current and prospective financial condition; and
- ensure the financial strength, experience, qualifications, and credit history of the Borrower, Key Principals, and Guarantors support the transaction's
  - size,
  - complexity,
  - structure, and
  - risk.

Section 302 Borrower Organizational Structure

302.01 Single-Asset Entity

☑ Requirements

You must ensure:

- the Borrower is a domestic single-asset entity formed for the sole purpose of owning the Property;

- if the Borrower is ultimately owned by foreign persons or entities, it has at least 1 domestic tier of ownership; and
- you review
  - the Borrower's complete formation documents, and
  - all amendments or restatements.

Guidance

As you analyze the Borrower and its organizational documents to confirm that it has been a single-asset entity since formation, consider the following questions:

- Can the Borrower acquire any additional real property, personal property, or assets?
- Can the Borrower participate in any business other than managing and operating the Property?
- Are the Borrower's assets or funds commingled with anyone else's? If so, can these assets or funds be separated and identified?
- Are the Borrower's financial statements, accounting records, and other organizational documents maintained with anyone else's?
- Has the Borrower assumed, guaranteed, or obligated itself to cover anyone else's liabilities?

Requirements

If the Borrower owns more than a single asset, the Borrower may still qualify as a single asset entity if you:

- Obtain an operating statement for each real property owned.
- Obtain proof that the Borrower has no existing debt secured by a Lien on any of the Borrower's real property, other than a Mortgage Loan purchased by Fannie Mae.
- Obtain proof that no direct or indirect equity interest in the Borrower is subject to mezzanine financing.
- Ensure that the Loan Documents prohibit the Borrower from
  - acquiring any additional debt (except for supplemental debt on existing Fannie Mae loans),
  - increasing any existing debt, or
  - acquiring any additional real property.

Guidance

As you analyze the Borrower that owns more than a single asset, you should consider whether its other real estate assets are only

- multifamily properties, or
- other types of real estate that do not pose an environmental risk to the Borrower.

302.02 Co-Tenant Borrowers

Requirements

You must ensure that any Co-Tenant Borrower meets these eligibility requirements:

- the Borrower has no more than 10 co-tenants;
- no co-tenant is an individual; and
- each co-tenant:
  - is a single-asset entity complying with Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.01: Single-Asset Entity;
  - is underwritten as a stand-alone Borrower;
  - complies with Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 303: Key Principals, Principals, and Guarantors; and
  - has jointly and severally executed the Loan Documents.

302.02A Tenancy-in-Common Agreement

Requirements

You must ensure that a validly executed Tenancy-in-Common Agreement is in place prior to or at the Mortgage Loan closing.

You must review the agreement to ensure that:

- each co-tenant is bound by the terms of the agreement;
- the Property has a manager of its day-to-day business and affairs, which can be
  - a single co-tenant (or the Key Principal of such co-tenant) known as

the "co-tenant representative", or

- a validly-appointed property manager; and

- distributions to the co-tenant representative are subordinate to
  - all payments under any Mortgage Loan secured by a Lien on the Property, and
  - the terms and conditions of any such Mortgage Loan.

Guidance

As you analyze the Tenancy-in-Common Agreement, consider the following questions. The term "co-tenant" also includes any Key Principal who has the rights of the co-tenant.

Representation

- Have the Co-Tenant Borrowers given the co-tenant representative the power to deal with the Lender through the Tenancy-in-Common Agreement or an irrevocable power-of-attorney?
- Has each Co-Tenant Borrower waived its right to reside in the Property?

Buy outs

- Does each Co-Tenant Borrower have buy out rights to any other co-tenant?
- Is each Co-Tenant Borrower financially able to buy out any other co-tenant?

Communication

- Does each Co-Tenant Borrower have a name, address, telephone number, and percentage of ownership interest listed?
- Has each Co-Tenant Borrower agreed to promptly notify all other Co-Tenant Borrowers and you if their address or telephone number changes?
- Has a single Key Principal of the co-tenant representative agreed to receive any communication from you on behalf of all Co-Tenant Borrowers?

302.02B Key Principal Execution of Guaranty

Requirements

You must ensure that:

- each Co-Tenant Borrower names at least 1 Key Principal; and
- if a Guaranty is required per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 311: Execution of Non-Recourse Guaranty, a Key Principal from each Co-Tenant Borrower must become a Guarantor and execute either a Non-Recourse Guaranty or Payment Guaranty.

302.03 Joint and Several Borrowers with Multiple Properties

☑ Requirements

If a Mortgage Loan not in a Credit Facility is secured by multiple Properties and any Property is owned by a different Borrower, you must require each Borrower to:

- execute a single set of Loan Documents with joint and several liability for the Mortgage Loan;
- comply with the "single purpose entity" requirements per Modifications to Multifamily Loan and Security Agreement (Co-Borrowers) (Form 6274);
- be owned, directly or indirectly, by the same Persons having the same percentage ownership interests;
- be Controlled by the same Sponsor or Key Principal;
- execute Form 6274, restricting Property Transfer/Assumption or release during the Mortgage Loan term;
- execute an acceptable Contribution Agreement complying with Form 6274; and
- if separate Security Instruments are recorded to encumber Properties in different counties, execute separate Modifications to Security Instrument (Co-Borrowers) (Form 6322) for each Security Instrument.

Each Property securing the Mortgage Loan must:

- be in the same State; and
- comply with Part II, Chapter 1: Attributes and Characteristics, Section 103.01: Single Borrower Ownership.

Section 303 Key Principals, Principals, and Guarantors

303.01 Generally



Requirements

For every Mortgage Loan, you must:

- identify and underwrite the Sponsor, any Guarantor, and all Key Principals and Principals of the Borrower;
- require the Borrower to disclose any foreign Persons whose direct or indirect ownership interest in the Borrower, in the aggregate, is 10% or greater; and
- ensure the Guarantor
  - is not a foreign person or a foreign entity, and
  - either has an ownership interest in the Borrower or ensure that the Guarantor has adequate legal consideration to enter into the Guaranty.

You must:

- not deliver a Mortgage Loan with
  - undisclosed Principals, or
  - a Blocked Person as a
    - Borrower,
    - Guarantor,
    - Key Principal, or
    - Principal;
- review the complete, unredacted organizational documents, and any amendments and restatements;
- comply with Part III, Chapter 15: Mezzanine Financing; Preferred Equity and Structured Common Equity, Section 1502: Preferred Equity and Structured Common Equity, if the Borrower's organizational structure includes any:
  - Structured Common Equity;
  - Hard Pay Preferred Equity;
  - Mandatory Pay Preferred Equity; or
  - Soft Pay Preferred Equity.

Guidance

You should refer to the Equity Checklist (Form 6441) for additional information on Borrower ownership structures with:

- Structured Common Equity;
- Hard Pay Preferred Equity;
- Mandatory Pay Preferred Equity; and
- Soft Pay Preferred Equity.

☑ Requirements

You must identify:

- as a Principal any Person required per the Equity Checklist (Form 6441); and
- Principals based on the aggregate of all direct and indirect ownership interests in the Borrower held per the following table.

If the Borrower (or the Person owning an interest in the Borrower) is a...	Then a Principal is...
General Partnership or Joint Venture	any general partner or joint venturer.
Limited Partnership	• all general partners; • any Person who owns, directly or indirectly, an aggregate 25% or more limited partnership interest in the Borrower through any single limited partner; and • any Person who owns, directly or indirectly, an aggregate 25% or more limited partnership interest in the Borrower through multiple limited partners.
Privately-Held Corporation	any Person who owns 25% or more of the voting stock in the Borrower.
Limited Liability Company	• all non-member managers or member-managers; • any Person who owns, directly or indirectly, an aggregate 25% or more membership interest in the Borrower through any single member; and • any Person who owns, directly or indirectly, an aggregate 25% or more membership interest in the Borrower through multiple members.

If the Borrower (or the Person owning an interest in the Borrower) is a...	Then a Principal is...
Co-Tenant Borrower	any Person who owns, directly or indirectly, a 25% or more ownership interest in each co-tenant.
Trust Borrower (other than a Land Trust)	• the grantor (if the trust is a revocable trust or if the grantor or settlor has retained powers); • any trustee; and • any Person who has a 25% or more beneficial interest in the trust.
Trust owning, directly or indirectly, an aggregate 25% or more interest in the Borrower	• the grantor (if the trust is a revocable trust or if the grantor or settlor has retained powers); • any trustee; and • any Person who owns an aggregate 25% or more direct or indirect interest in the Borrower, including their beneficial ownership in the trust.
Land Trust	any Person who has • the power of direction, and • a 25% or more beneficial ownership interest in the land trust.

Guidance

For example: Borrower of ABC Apartments, LLC has the following ownership structure:

Equity Owner	Role	Direct Ownership % in Borrower	Member Equity Owner and % Interest	Aggregate Indirect Ownership % in Borrower
ABC Reality, LLC	Managing Member	1%	John Doe - 100%	1%
Member A, LLC	Non-managing Member	19.80%	Bob Smith - 50%	9.9%
			Others - 50%	9.9%
Member B, LLC	Non-managing Member	19.80%	Bob Smith - 50%	9.9%
			Others - 50%	9.9%

Equity Owner	Role	Direct Ownership % in Borrower	Member Equity Owner and % Interest	Aggregate Indirect Ownership % in Borrower
Member C, LLC	Non-managing Member	19.80%	Bob Smith - 20%	3.96%
			XYZ Owner, LP - 80%	15.84%
Member D, LLC	Non-managing Member	19.80%	Bob Smith - 50%	9.9%
			Sally White - 50%	9.9%
Member E, LLC	Non-managing Member	19.80%	Bob Smith - 50%	9.9%
			Others - 50%	9.9%

In addition, the ownership interest of XYZ Owner, LP is:

Equity Owner	Role	Direct Ownership % in XYZ Owner, LP	Aggregate Indirect Ownership % in Borrower
987 Investor, LLC	General Partner	1%	0.16%
Sally White	Limited Partner	99%	15.68%

You must identify:

- Bob Smith as a Principal of ABC Realty based on his aggregate 43.56% indirect ownership interest in the Borrower; and
- Sally White as a Principal of ABC Realty based on her aggregate 25.58% indirect ownership interest in the Borrower.

It is immaterial that:

- neither Bob Smith nor Sally White has any direct ownership interest in the Borrower or the managing member of the Borrower; and
- none of the non-managing members of the Borrower owns greater than the 25% direct interest in the Borrower that would qualify for being

identified as a Principal.

303.02 Entity Review

Guidance

When you review an entity, consider the following questions:

- If it is an existing entity (e.g., a corporation, limited liability company, limited liability partnership, or other acceptable structure) that is not newly formed, does it comply with the requirements for a Borrower owning more than a single asset per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.01: Single-Asset Entity?
- Is it a well-capitalized, stable, ongoing business that would be expected to:
  - Remain financially healthy?
  - Support the Property?
  - Meet all Guarantor requirements and obligations under the Guaranty?
  - Have assets and net worth that are significantly greater than what would be minimally acceptable for an individual Key Principal?

303.03 Fund Review

Guidance

When you review a fund, consider the following questions:

- What is the experience and performance history of the fund manager with similar funds?
- Can the fund raise equity from financially substantial investors?
- What is the performance of the fund?
- What is the leverage level of the fund?
- What is the net worth and liquidity of the fund?
- What is the type and quality of
  - the Property and market,
  - other existing properties and markets, and
  - any potential additional properties and markets targeted by the fund pursuant to its agreements?

Additionally, you should review the organizational documents and private placement memorandum (if applicable) for the following information:

- the fund's expiration date;
- any extension to the fund's existence and conditions to approve that extension; and
- the process for winding up the business affairs of the fund, including whether the fund is organized in a state that requires the orderly dissolution of investment funds, such as Delaware or Illinois.

Section 304 Limited Experienced Owner

☑ Requirements

You must determine if any Sponsor, Key Principal, or Guarantor is a Limited Experienced Owner.

To determine if a Co-Tenant Borrower is a Limited Experienced Owner, you:

- must analyze the Person named as the co-tenant representative per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.02: Co-Tenant Borrowers; and
- may exclude from the analysis any:
  - passive Tenant in Common Member, who is solely named a Key Principal to comply with Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.02: Co-Tenant Borrowers; or
  - Borrower whose Controlling Interest is owned by a Key Principal or Guarantor that does not meet the definition of a Limited Experienced Owner.

For each Limited Experienced Owner:

- verify the identity of the Sponsor and each Key Principal or Guarantor, or any Person who owns a Controlling Interest in the Borrower, using a current
  - driver's license or passport,
  - personal residence, and
  - business address (not a P.O. Box);
- ensure your Credit Underwriting or Screening team meets, in person or virtually, each individual:



- identified as, or on behalf of, the Key Principal or Guarantor; or
- who owns, directly or indirectly, a Controlling Interest in
  - the Borrower,
  - any Key Principal, or
  - any Guarantor;

- for any individual identified as a Key Principal or Guarantor, or who owns a Controlling Interest in the Borrower, Key Principal, or Guarantor:
  - obtain a resume; and
  - verify employment history using
    - a Lexis-Nexis report, or
    - other industry standard background reporting tool;

- review, for each Key Principal or Guarantor, or Person who owns a Controlling Interest in the Borrower, their:
  - investment profile;
  - business goals; and
  - primary sources of income, which must be consistent with business activities;

- obtain evidence of the origin of transaction funds for
  - an Acquisition, or
  - cash-in refinances requiring the Borrower to deposit additional funds at closing; and

- determine any appropriate adjustments to the reported liquidity and net worth of the Sponsor and each Key Principal or Guarantor, including:
  - verifying liquidity based on 3 consecutive months of bank or brokerage statements for accounts (a bank or brokerage letter alone is insufficient to verify liquidity); and
  - using best efforts to verify the value (including ownership interest and debt outstanding) of all real estate owned, directly or indirectly, using
    - K-1 statements,
    - CoStar or similar service, or
    - mortgage loan verification from other creditors.

Guidance

You should consider if the additional underwriting requirements are appropriate for any Borrower, Sponsor, Guarantor, or Key Principal with whom you have never originated a multifamily Mortgage Loan, even if they are not a Limited Experienced Owner.

Section 305 Financial Statements

Requirements

You must:

- obtain signed financial statements dated within 15 months of the Commitment Date from all parties relevant to the Mortgage Loan; and
- ensure all:
  - Potential Red Flags for Mortgage Fraud and Other Suspicious Activity were considered; and
  - unresolved red flags were reported per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 310: Compliance.

For all financial statements, you must collect:

- a list of all other assets, including
  - notes receivable from related entities, and
  - an estimate of the market value of each asset with the basis for calculating value estimates; and
- all liabilities and contingent liabilities, including
  - debts under lines or letters of credit,
  - personal guaranties,
  - unmet obligations to partnerships or other entities, and
  - other future obligations, with their amount and timing.

For all Mortgage Loans, you must determine any:

- appropriate adjustments to the reported net worth and liquidity of the Sponsor and each Key Principal or Guarantor; and
- other factors that may impact the party's financial position immediately or during the term of the Mortgage Loan (including any known threat of

potential lawsuits that may arise from the parties' business operations).

Section 306 Schedule of Real Estate Owned (SREO) (Form 4526)

Requirements

You must:

- obtain an SREO (Form 4526) from the Sponsor (if the Sponsor is not the named Key Principal and/or Guarantor), Key Principal, and Guarantor for all real estate assets;
- fully comply with the Instructions tab in Form 4526; and
- fully analyze:
  - the SREO, including non-multifamily properties;
  - your identification and mitigation of underperforming properties;
  - upcoming maturities; and
  - recourse debt.

Guidance

You should review Form 4526 and financial statements to determine whether the named Key Principal and any Guarantor have sufficient:

- multifamily real estate expertise to manage the
  - Mortgage Loan, and
  - Property; and
- unencumbered financial wherewithal to provide necessary support for the
  - Property, and
  - Mortgage Loan.

You do not need to obtain a separate Form 4526 from the Sponsor if:

- a Mortgage Loan's Sponsor is not the named Key Principal or Guarantor; and
- you determined the Key Principal and/or Guarantor have sufficient multifamily real estate experience and the financial capacity to support the
  - Property, and

- Mortgage Loan.

Section 307 Certifications

307.01 Multifamily Underwriting Certificate (Form 6460)

☑ Requirements

You must:

- obtain the appropriate Multifamily Underwriting Certificate (Form 6460) from
  - the Borrower,
  - any Guarantor, and
  - each Key Principal; and
- retain a copy of each Form 6460 in your Servicing File.

You must ensure the Form 6460:

- is signed and certified as
  - true,
  - correct, and
  - complete;
- has all corresponding financial documents attached;
- includes representations by the Borrower, Guarantor, or Key Principal that, to their knowledge, all
  - financial statements and schedules
    - are dated within 15 months of the certification date,
    - were prepared by the Borrower, Guarantor, or Key Principal or their independent accounting firm,
    - are true, correct, and provide a current and accurate account of the financial condition of the
      - Property,
      - Borrower,
      - Key Principals, and
      - Guarantors; and



- Property condition information provided to you or to the PCA Consultant is correct as of the date provided; and

- either:
  - is dated within 90 days before the Commitment Date; or
  - includes a certification of no material adverse changes to the financial condition shown in the financial statements delivered per the Form 6460 from each of the
    - Borrower,
    - Key Principals, and
    - Guarantor.

307.02 Brokered Transaction Certifications

☑ Requirements

For any Brokered Transaction, you must ensure the Borrower, all Key Principals, and any Guarantors directly deliver all:

- financial statements and schedules to you, including:
  - Property rent rolls;
  - Cooperative Maintenance Fee schedules;
  - Property operating statements;
  - Borrower financial statements; and
  - other related documents; and
- Property condition information to you or the PCA Consultant, including:
  - inspection records;
  - maintenance records;
  - pre-site visit questionnaire;
  - capital improvement plans; and
  - other relevant information.

For any Brokered Transaction, you must certify in your Transaction Approval Memo that you directly, not through a Broker or Correspondent:

- obtained and reviewed all underwriting source documents from the

- Sponsor/Borrower,
- Key Principals, and
- Guarantors;

- underwrote the Mortgage Loan;
- engaged all third-party reports/consultants; and
- entered accurate and complete Broker or Correspondent information into
  - DUS Gateway, and
  - Multifamily Committing and Delivery Systems.

Section 308 Fraudulent Conveyance

Requirements

You must not obtain a Commitment for any Mortgage Loan if you believe that the Borrower, Key Principals, Principals, or Guarantors intend to delay, hinder, or defraud creditors.

Guidance

To show that you have made the Mortgage Loan in good faith, consider the following questions:

- Have you carefully reviewed the facts so that you have a clear defense to potential fraudulent conveyance or fraudulent transfer claims?
- Have you obtained a Form 6460 that confirms the Borrower's good faith?

Section 309 Applicant Experience Check

Requirements

For all Mortgage Loan applications and any Transfer/Assumption, you must:

- perform an ACheck per the timing below for
  - the Borrower,
  - each Key Principal,
  - each Principal,
  - each Guarantor, and
  - any Person who owns a Controlling Interest in an entity

- Key Principal, or
- Guarantor; and

- receive a "You can proceed" response.

ACheck Timing	
For all...	You must perform an ACheck for each of the following events...
Mortgage Loans	• upon accepting a signed application when you receive the - Social Security Number, or - Tax Identification Number; • before you obtain a Rate Lock; and • before the Mortgage Loan Origination Date.
Transfers/Assumptions	• when the Borrower submits the request and you receive the Transferee's/Assignee's - Social Security Number, or - Tax Identification Number; and • before any required Amendment to the Loan Agreement is executed.

Guidance

When entering your final Mortgage Loan data per Part IV, Chapter 4: Delivery, Section 402.01: Data and Documents, the Multifamily Committing and Delivery System runs an ACheck on all listed participants. The Mortgage Loan will not reach "Submitted" status unless a "You can proceed" response is received.

For any extended Rate Lock (e.g., 180 days), you should consider performing an additional ACheck between Rate Lock and Delivery.

Operating Procedures

The ACheck application is available at https://multifamily.fanniemae.com/applications-technology/acheck.

ACheck Frequently Asked Questions	
Question	Answer
What information do you need to perform an ACheck?	The applicant's • tax identification number, or • Social Security number.
How do you view ACheck results?	The ACheck application will immediately respond either • "You can proceed", or • "Do not continue processing".
What must you do if you receive a "You can proceed" response?	For each applicant, you must: • receive a "You can proceed" response to proceed with the Mortgage Loan application; • complete full credit underwriting; and • not interpret this ACheck response to mean the applicant is approved.
What must you do if you receive a "Do not continue processing" response?	If the ACheck response is "Do not continue processing the transaction involving this applicant" (or similar wording), you must: • comply with all ACheck instructions; and • not proceed with the application by omitting any Borrower, Key Principal, Principal, or Guarantor who received a "Do Not Process" response.
What about confidentiality?	• Fannie Mae will not provide any information regarding a "Do not continue processing" response for a particular - Borrower, - Key Principal, - Principal, or - Guarantor. • You must establish procedures ensuring all ACheck responses remain confidential.

Requirements

You must:

- unless you are subject to, and complying with, the Bank Secrecy Act, establish and maintain effective procedures and controls (including employee training), similar to those required by the Bank Secrecy Act, to prevent, identify, and report potential:
  - mortgage fraud; and
  - other suspicious activity; and
- confirm every Borrower, Key Principal, Principal, or Guarantor is not a Blocked Person.

Operating Procedures

If you identify Potential Red Flags for Mortgage Fraud and Other Suspicious Activity:

1. Do not inform the Borrower, any Borrower Affiliate, Key Principal, Principal, or Guarantor.
2. Evaluate the red flags to determine if a plausible business explanation exists.
3. Immediately report any unresolved red flags indicative of mortgage fraud or other suspicious activity to:
   - https://fims.my.salesforce-sites.com/MortgageFraudReport or (800) 232-6643; and
   - Lender Assessment Oversight.
4. Maintain all documentation relating to the potential mortgage fraud or other suspicious activity.
5. Promptly provide all related documentation to Fannie Mae upon request.
6. Do not provide any information to Fannie Mae that would indicate whether you have filed a Suspicious Activity Report (SAR) with the Financial Crimes Enforcement Network (FinCEN).

If you identify any Borrower, Key Principal, Principal, or Guarantor as a Blocked Person:

1. Report the Blocked Person to Lender Assessment Oversight within 24 hours.

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2. Maintain all documentation relating to your searches.
3. Promptly provide all related documentation to Fannie Mae upon request.
4. Do not

   - Deliver the Mortgage Loan, or
   - proceed with the Mortgage Loan by omitting any Person that is a Blocked Person.

Section 311 Execution of Non-Recourse Guaranty

☑ Requirements

You must obtain a Non-Recourse Guaranty from a Key Principal (the Guarantor) for any Mortgage Loan that has:

- an Underwritten DSCR less than
  - 1.35 for fixed rate, or
  - 1.10 for variable rate; or
- an LTV greater than 65%.

You do not need to obtain a Non-Recourse Guaranty if the

- Borrower is a Cooperative Organization, or
- Key Principal (who would otherwise be the Guarantor) is a Publicly-Held Entity.

Section 312 Conflict Mortgage Loans

312.01 Description

☑ Requirements

Conflict Mortgage Loan Type	
Conflict Mortgage Loan	• Any Mortgage Loan in which: - you, or any of your Lender Affiliates or Lender Senior Executives ▪ owns (or will own) any direct or indirect equity interest in the Borrower, or ▪ directly or indirectly controls the Borrower; or - any of your employees, or a group of your employees, owns (or will own) more than a 5% direct or indirect equity interest in the Borrower. • Any Mortgage Loan with DLA Mezzanine Financing. Note: The following are not considered when determining if the Mortgage Loan is a Conflict Mortgage Loan: • any equity interest you acquire in the Borrower relating solely to obtaining the associated LIHTCs (see Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 709: LIHTC Properties Lender Equity Interest); and • ownership by a Lender Senior Executive in a Publicly-Held Entity that has a direct or indirect ownership in the Borrower, if the Lender Senior Executive has no: - Control over the Publicly-Held Entity; or - influence over its investment in the Borrower.

Conflict Mortgage Loan Type	
Prohibited Conflict Mortgage Loan	Any Mortgage Loan in which: • you or any single Lender Senior Executive of yours owns more than a 5% direct or indirect equity interest in the Borrower; • any group of your Lender Senior Executives together owns more than a 10% direct or indirect equity interest in the Borrower; or • you or any of your Lender Affiliates is the Property manager.

Conflict Mortgage Loan Type	
Controlling Conflict Mortgage Loan	Any Conflict Mortgage Loan where: • you - can (other than through the exercise of a lender's rights and remedies under the Loan Documents) require changes to the management, operations, or decision-making of the Borrower, the Key Principal, any Person holding a Controlling Interest in the Borrower or Key Principal, or any Principal or Guarantor, or - own any Preferred Equity in the Borrower; • any of your Lender Affiliates or any employees or any group of employees of yours or any of your Lender Affiliates - can require changes to the management, operations, or decision-making of the Borrower, the Key Principal, any Person holding a Controlling Interest in the Borrower or Key Principal, or any Principal or Guarantor, - individually or together own a 25% direct or indirect equity interest in the Borrower or in any Person holding a Controlling Interest in the Borrower at or after loan origination (including any interest acquired as part of a Transfer/Assumption), - own any Preferred Equity in the Borrower, or - exercises rights under DLA Mezzanine Financing that results in a Controlling Conflict Mortgage Loan under these requirements; or • any of your Lender Senior Executives owns or Controls any direct or indirect equity interest in the Borrower.

You must not

- Deliver a Prohibited Conflict Mortgage Loan, or
- cause any Portfolio Mortgage Loan to become a Prohibited Conflict Mortgage Loan.

312.02 Restrictions

312.02A Underwriting

☑ Requirements

You must ensure that no Lender employee or other person involved in Conflict Mortgage Loan underwriting and approval owns any direct or indirect equity interest in the Borrower.

You must include the following in your Transaction Approval Memo:

- the amount of any direct or indirect equity interest in the Borrower owned by any Lender Senior Executive, other Lender employee or group of employees; and
- answers to the following questions, including an explanation if your answer to a question is yes:
  - Does any Lender Senior Executive, other Lender employee or group of employees, or any person who participated in the underwriting or approval of the Mortgage Loan, own any direct or indirect equity interest in the Borrower?
  - Can any Lender Senior Executive, other Lender employee or group of employees, or any person who participated in the underwriting or approval of the Mortgage Loan, require changes to the management, operations, or decision-making of the Borrower?

In addition, your underwriting submission must include:

- copies of the Borrower's organizational documents and financial statements;
- copies of all organizational documents and financial statements for any Lender Affiliate that holds a direct or indirect equity ownership interest in the Borrower; and
- an organizational chart or diagram showing the:
  - Borrower's complete ownership structure;
  - relationship among the Lender, Borrower, and applicable Lender Affiliate; and
  - percentage ownership of each entity.

Operating Procedures

You must designate the Mortgage Loan as a Conflict Mortgage Loan in C&D.

312.02B Servicing

Requirements

As Servicer of a Controlling Conflict Mortgage Loan, you must not

- participate in loss mitigation or special asset management decisions if it becomes a Non-Performing Mortgage Loan, or
- be notified of, or participate in, any negotiations or communications between Fannie Mae and the Borrower, Key Principal, or Principal (or any Affiliate of any of them).

Fannie Mae will make reasonable efforts to provide copies of written communications between Fannie Mae and other parties.

These servicing restrictions apply as long as the Mortgage Loan is considered a Controlling Conflict Mortgage Loan.

Operating Procedures

1. Fannie Mae has sole discretion to decide what action, if any, to take regarding any Controlling Conflict Mortgage Loan, any Property securing a Controlling Conflict Mortgage Loan, or any Borrower or Guarantor.
2. If Fannie Mae decides that a Controlling Conflict Mortgage Loan has a material risk of default or other characteristics of increased risk, it can
   - designate a substitute servicer or subservicer, or
   - terminate (with or without cause) your right to service the Mortgage Loan.
3. Fannie Mae will comply with the Program Rules Part 3 Sections B and C relating to Fannie Mae initiated servicing transfers. After servicing is transferred, you will retain your loss sharing obligation.

312.02C No First Right of Refusal

Requirements

You will not have any First Right of Refusal to purchase a Property that secured a Conflict Mortgage Loan, even if the Loss Sharing Addendum to the MSSA grants you this right.

312.02D Additional Disclosure

Operating Procedures

For an MBS backed by a Conflict Mortgage Loan, you must indicate in C&D

- that additional disclosure is required, and
- whether it is the Lender, a Lender Affiliate, a Lender Senior Executive, a Lender employee, or group of employees who has a Controlling Interest or a non-Controlling Interest.

312.02E Notifications

Requirements

If, after delivering a Mortgage Loan, it becomes a Conflict Mortgage Loan, you must deliver all materials described in this Section to Multifamily Asset Management within 30 days after acquiring each equity interest.

Glossary

A

ACheck	Lender due diligence performed for the Borrower, Key Principal, and Principal using the ACheck™ application. **Synonyms** • Applicant Experience Check
Acquisition	Any Purchase of either the: • Property's fee simple or leasehold interest via a deed transfer; or • Controlling Interest in the Borrower. **Synonyms** • Acquisitions
Additional Disclosure	Information you provide that is published as an addendum to the disclosure documents when an MBS is issued and describes special Security, Mortgage Loan, or Property characteristics or terms that differ from those described in the standard Multifamily MBS Prospectus. **Synonyms** • Additional Disclosures • Special Disclosure

Affiliate	When referring to an affiliate of a Lender, any other Person or entity that Controls, is Controlled by, or is under common Control with, the Lender. When referring to an affiliate of a Borrower or Key Principal: • any Person that owns any direct ownership interest in Borrower or Key Principal; • any Person that indirectly owns, with the power to vote, 20% or more of the ownership interests in Borrower or Key Principal; • any Person Controlled by, under common Control with, or which Controls, Borrower or Key Principal; • any entity in which Borrower or Key Principal directly or indirectly owns, with the power to vote, 20% or more of the ownership interests in such entity; or • any other individual that is related (to the third degree of consanguinity) by blood or marriage to Borrower or Key Principal. **Synonyms** • Affiliates • Affiliate's

B

Bank Secrecy Act	Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act of 1970 (31 U.S.C. 5311 et seq.).
Blocked Person	Any Person who is: • on the FHFA SCP List; • sanctioned or blocked by OFAC; or • identified on: - HUD's "Limited Denial of Participation, HUD Funding Disqualifications and Voluntary Abstentions List"; or - General Services Administration's "System for Award Management (SAM) exclusion list".

Borrower	Person who is the obligor per the Note. **Synonyms** • Borrowers • Borrower's
Brokered Transaction	Any Mortgage Loan sourced by you using a third party (e.g., a Mortgage Loan Broker or Correspondent) for which the third party receives a referral or other similar fee paid by you or by, or on behalf of, the Borrower. The following are not Brokered Transactions, even when a referral or other similar fee is paid or received: • you use an investment sale broker retained solely to assist in selling a Portfolio Mortgage Loan Property that is not being refinanced with Fannie Mae; • the third party is another multifamily Lender; • the third party continues receiving ongoing referral or other similar fees after the Mortgage Loan Origination Date for subsequent Mortgage Loans originated by you with that same Sponsor and with which the third party is not involved; or • the third party owns more than 5% of your total equity. **Synonyms** • Brokered Transactions

C

Co-Tenant Borrower	Borrower consisting of tenants-in-common that own the Property in equal or unequal shares. **Synonyms** • Co-Tenant Borrowers

Commitment	Contractual agreement between you and Fannie Mae where Fannie Mae agrees to buy a Mortgage Loan at a future date in exchange for an MBS, or at a specific price for a Cash Mortgage Loan, and you agree to Deliver that Mortgage Loan. **Synonyms** • Committed • Commitments
Commitment Date	Date a Commitment is confirmed by Fannie Mae per Part IV, Chapter 2: Rate Lock and Committing, Section 204: Commitments.
Control	Possessing, directly or indirectly, the power to direct or cause the management and operations of an entity (e.g., through the ownership of voting securities or other ownership interests, or by contract). **Synonyms** • Controlling • Controlled • Controls
Controlling Interest	For any entity, ownership or control of 50% or more of the ownership interests in the entity or the power or right to control or modify, directly or indirectly, the management and operations of the entity.
Cooperative Maintenance Fee	Periodic fee assessed each shareholder or owner of a Cooperative Organization to fund costs and expenses associated with ongoing operations of the Cooperative Property. **Synonyms** • Cooperative Maintenance Fees

Cooperative Organization	Corporation or legal entity where each shareholder or equity owner is granted the right to occupy a unit in a multifamily residential property under a proprietary lease or occupancy agreement.
Cooperative Property	Multifamily residential property owned by a Cooperative Organization. **Synonyms** • Co-op • Cooperative
Credit Facility	Structured Transaction governed by a Master Credit Facility Agreement requiring Mortgage Loans and Properties to be • cross-defaulted, and • cross-collateralized. **Synonyms** • Credit Facilities • Credit Facility's

D

Debt Service Coverage Ratio	On an annual basis or any specified period, the ratio of Net Cash Flow to the total of: principal, interest, and required Mezzanine Financing or Hard Pay Preferred Equity payments. **Synonyms** • DSCR

Delivery	Submission of all correct, accurate, and certifiable documents, data, and information with all applicable documents properly completed, executed, and recorded as needed, and any deficiencies resolved to Fannie Mae's satisfaction. **Synonyms** • Deliver • Delivered • Deliveries
DUS	Delegated Underwriting and Servicing
DUS Gateway	Multifamily pre-acquisition system, or any successor systems, recording deal registration, Pre-Review and/or waiver tracking, Mortgage Loan Commitments, and decision records.
DUS Lender Affiliate Mezzanine	Mezzanine Financing provided by an approved mezzanine lending affiliate of a DUS Lender. **Synonyms** • DLA Mezzanine Financing

F

FinCen	U.S. Treasury Department, Financial Crimes Enforcement Network
Foreign Person	Person who is not: • a United States citizen; • a legal permanent resident of the United States; or • an entity organized and existing under the laws of the United States of America, or its states or territories.

G



Guarantor	Key Principal or other Person executing a • Payment Guaranty, • Non-Recourse Guaranty, or • any other Mortgage Loan guaranty. **Synonyms** • Guarantors
Guaranty	Payment Guaranty, Non-Recourse Guaranty, or other guaranty by a Guarantor for the Mortgage Loan.
Guide	Multifamily Selling and Servicing Guide controlling all Lender and Servicer requirements unless a Lender Contract specifies otherwise. **Synonyms** • DUS Guide

H

Hard Pay Preferred Equity	Preferred Equity structure in the Borrower including the Preferred Equity investor's right to a Control Takeover while the Mortgage Loan is outstanding if the Preferred Equity investor fails to receive returns required to be paid regardless of: • available Excess Net Cash Flow; or • whether the Property yields Net Cash Flow sufficient to pay the returns.

I

Investor	MBS Investor for an MBS Mortgage Loan, or Fannie Mae for a Cash Mortgage Loan. **Synonyms** • Investors • Investor's

K



Key Principal	Person who • controls and/or manages the Borrower or the Property, • is critical to the successful operation and management of the Borrower and the Property, and/or • may be required to provide a Guaranty. **Synonyms** • Key Principals • Key Principal's

L

Lender	Person Fannie Mae approved to sell or service Mortgage Loans. **Synonyms** • Lenders • Lender's
Lender Affiliate	Other Person or entity that Controls, is Controlled by, or is under common Control with, the Lender.
Lender Assessment Oversight	Team that can be contacted at mf_lrm_communications@fanniemae.com.
Lender Contract	Program Documents per the Multifamily Selling and Servicing Agreement. **Synonyms** • Lender’s Contract • Lender Contracts • Contract • Multifamily Selling and Servicing Agreement • MSSA

Lender Senior Executive	For any Lender any: a. senior executive officer serving as its president, chief executive officer, chief financial officer, chief operating officer, chief production officer, chief underwriter, chief asset manager, chief legal officer, chief information security officer, chief compliance officer, or substantially equivalent position; b. individual with voting or approval rights over whether the Lender commits to make a Mortgage Loan; or c. Immediate Family Member of, or individual having a close relationship with, any individual identified in (a) or (b). **Synonyms** • Lender Senior Executives
Letter of Credit	Letter of Credit approved by Fannie Mae per Part I, Chapter 2: Mortgage Loan, Section 204: Letters of Credit. **Synonyms** • Letters of Credit • Letter of Credit's • LOC • LOCs
Lien	Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind. **Synonyms** • Liens

Limited Experienced Owner	Any Person who has not been a Sponsor, Cooperative Property Sponsor, Key Principal, or Guarantor for a Fannie Mae multifamily Mortgage Loan in the last 10 years before the Commitment Date. Regardless, a Sponsor, Cooperative Property Sponsor, Key Principal, or Guarantor is not a Limited Experienced Owner if they: • are a fund Sponsor whose other current or historical funds under its Control satisfy these requirements; or • currently have a Controlling Interest in Persons directly or indirectly owning more than 1,000 multifamily units. **Synonyms** • Limited Experienced Owners
Loan Documents	All Fannie Mae-approved documents evidencing, securing, or guaranteeing the Mortgage Loan. **Synonyms** • Loan Document • Mortgage Loan Document • Mortgage Loan Documents
Loan-to-Value Ratio	Ratio of the actual aggregate UPB of the Mortgage Loan, plus any Pre-Existing Mortgage Loans, plus any Hard Pay Preferred Equity, plus any Mezzanine Financing, to the value of the Property, expressed as a percentage. **Synonyms** • LTV • LTV Ratio

Low-Income Housing Tax Credit	Federal program offering tax credits to owners of eligible properties that contain low-income occupants and rent restrictions. **Synonyms** • Low-Income Housing Tax Credits • Low Income Housing Tax Credits • LIHTC • LIHTCs

M

Mandatory Pay Preferred Equity	Preferred Equity structure in the Borrower including the Preferred Equity investor's right to a Forced Sale while the Mortgage Loan is outstanding if the Preferred Equity investor fails to receive returns that are required to be paid, regardless of: • available Excess Net Cash Flow; or • whether the Property yields Net Cash Flow sufficient to pay the returns.
MBS	Mortgage-Backed Security
Mezzanine Financing	Subordinate debt financing provided to a direct or indirect owner of a Borrower that is secured by a pledge of the direct or indirect equity interest in the Borrower held by the owner, and not by a Lien on the Property.
Mortgage Loan	Mortgage debt obligation evidenced, or when made will be evidenced, by • the Loan Documents, or • a mortgage debt obligation with a Fannie Mae credit enhancement. **Synonyms** • Mortgage Loans • Mortgage Loan's



Mortgage Loan Broker	Third-party Person who arranges • Mortgage Loan financing on the Borrower's behalf, or • Transfers/Assumptions on behalf of the - new Borrower for an assumption, or - transferee for a transfer. **Synonyms** • Broker • Brokers • Mortgage Loan Brokers
Mortgage Loan Origination Date	Date you fund a Mortgage Loan to the Borrower. **Synonyms** • Mortgage Loan's Origination Date • Origination Date
Multifamily Affordable Housing Property	Property that: • complies with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702: MAH Property Eligibility; and • is underwritten per Part III, Chapter 7: Multifamily Affordable Housing Properties. **Synonyms** • MAH • Multifamily Affordable Housing • MAH Property
Multifamily Asset Management	Team that can be contacted at drawer_am@fanniemae.com.
Multifamily Committing and Delivery System	Electronic committing and delivery system used for issuing and confirming Commitments for acquiring Mortgage Loans, or any such successor system. **Synonyms** • C&D • Multifamily Committing and Delivery Systems

Multifamily Underwriting Certificate	Multifamily Underwriting Certificate (Form 6460 series) , and/or other agreement approved by Fannie Mae that provides underwriting information for a Mortgage Loan.

N

Non-Performing Mortgage Loan	Mortgage Loan with an uncured default. **Synonyms** • Non-Performing Mortgage Loans • Non-Performing Mortgage Loan's • Non-Performing
Non-Recourse Guaranty	Guaranty executed by a Key Principal on Form 4501 series or Form 6015 series, or approved by Fannie Mae. **Synonyms** • Guaranty of Non-Recourse Obligations

Note	Instrument evidencing a Mortgage Loan obligation, including
	• Form 6010 series,
	• any other Fannie Mae-approved note, and
	• all applicable
	  - addenda,
	  - schedules, and
	  - exhibits.
	
	Synonyms
	• Notes

P

Payment Guaranty	Guaranty executed by a Key Principal on Form 4502 series or Form 6020 series, or approved by Fannie Mae.

PCA Consultant	Individual or firm conducting a PCA and preparing a PCA Report. **Synonyms** • PCA Consultant's
Person	Legal person, including an • individual, • estate, • trust, • corporation, • partnership, • limited liability company, • financial institution, • joint venture, • association, or • other organization or entity (whether governmental or private). **Synonyms** • Persons • Person's
Personal Property	Furniture, fixtures, equipment, and other tangible personal property located on or used in connection with the Property.
Portfolio Mortgage Loan	Mortgage Loan purchased by Fannie Mae and held as of a certain date regardless of whether it is a Cash Mortgage Loan or an MBS Mortgage Loan. **Synonyms** • Portfolio Mortgage Loans • Portfolio Mortgage Loan's

Preferred Equity	A direct or indirect investment in the Borrower, for which the organizational documents provide that equity investor with: • an asset management fee or other fee before dividends, distributions, payments, or returns are paid to the investors; or • preferred or unequal rights to receive dividends, distributions, payments, or returns relative to other equity owners, but excluding: - an equity structure in which no equity investor has the right, whether individually or together with its affiliates, to a Forced Sale, a Control Takeover, or to remove any affiliate property manager; - an equity investment made solely for the allocation of LIHTCs; or - preferred or unequal dividends, distributions, payments, or returns paid to: ▪ a REIT equity investor from Excess Net Cash Flow; or ▪ an equity investor in the form of • payments of promote returns after pari passu payments are made to all equity investors based on a specified minimum internal rate of return or return threshold; or • repayment of a protective advance to pay debt service or other amounts due under the Loan Documents, or any other amounts reasonably required for the operation and maintenance of the Property.
Pricing and Underwriting Tier	Tier 1, Tier 2, Tier 3, or Tier 4 per the Multifamily Underwriting Standards (Form 4660). **Synonyms** • Tier

Principal	Person who owns or controls, in the aggregate, directly or indirectly (together with that Person's Immediate Family Members, if an individual), specified interests in the Borrower per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 303: Key Principals, Principals, and Guarantors. **Synonyms** • Principals
Property	Multifamily residential real estate securing the Mortgage Loan, including the • fee simple or Leasehold interest, • Improvements, and • personal property (per the Uniform Commercial Code). **Synonyms** • Properties • Property's
Property Condition Assessment	Assessment of the Property's physical condition and historical operation. **Synonyms** • PCA • PNA • Physical Needs Assessment • PCAs
Publicly-Held Entity	Any: • entity with a class of equity securities registered under Sections 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended (including any real estate investment trust with voting shares or beneficial interests so registered); or • pension fund controlled by any United States municipal, county, state, or federal governmental unit (or any political subdivision, agency, or instrumentality thereof).

R

Rate Lock	Agreement between you and the Investor containing the terms of the Lender-Arranged Sale or Multifamily Trading Desk trade of the Mortgage Loan and the MBS terms and conditions relating to the underlying MBS, if applicable, which may be documented via a recorded telephone conversation. **Synonyms** • Rate Locks
Real Estate Owned	A Property or interest in a Property acquired by Fannie Mae or on behalf of the MBS Trust, through a Foreclosure Event where title to a Property or interests in that Property are transferred to Fannie Mae or the MBS Trust. **Synonyms** • REO • REO's

S

Security	MBS, PFP MBS, or REMIC. **Synonyms** • Securities
Security Instrument	Instrument creating a lien or encumbrance on 1 or more Properties and securing the Loan Document obligations. **Synonyms** • Security Instruments • Security Instrument's

Servicer	Primary Person servicing the Mortgage Loan, including • the originator, • seller, or • a third party. **Synonyms** • Servicers • Servicer's
Servicing File	Your file for each Mortgage Loan serviced. **Synonyms** • Servicing Files
Soft Pay Preferred Equity	Preferred Equity structure specifying: • any returns due to the Preferred Equity investor are only required to the extent of available Excess Net Cash Flow for so long as the Mortgage Loan is outstanding; and • if Excess Net Cash Flow is not available, any returns owed to the Preferred Equity investor may be permitted to accrue.
Special Asset Management	Team performing Fannie Mae's Special Servicing that can be contacted at multifamily_sam@fanniemae.com. **Synonyms** • SAM • SAM's • Multifamily Special Asset Management
Sponsor	Principal equity owner and/or primary decision maker of the Borrower (often the Key Principal or the Person Controlling the Key Principal). **Synonyms** • Sponsors • Sponsor's

SREO	Certified document listing all real estate equity interests the Person owns. **Synonyms** • Schedule of Real Estate Owned
Structured Common Equity	Equity interests in the Borrower's organizational structure (not including Preferred Equity) where the investor, whether individually or together with its affiliates, has: • Forced Sale rights; or • Control Takeover rights.
Suspicious Activity Report	Report made by a financial institution to the Financial Crimes Enforcement Network (FinCEN), regarding suspicious or potentially suspicious activity. **Synonyms** • SAR

T

Transfer/Assumption	Transaction changing the ownership of the Borrower or Property. **Synonyms** • Transfers/Assumptions

U

Underwritten Debt Service Coverage Ratio	Ratio of Underwritten Net Cash Flow to the annual debt service for a Mortgage Loan amount based on a level debt service payment with the applicable amortization, and calculated per Part II, Chapter 2: Valuation and Income, Section 203: Income Analysis, as adjusted for the applicable products and features in Part III. **Synonyms** • Underwritten DSCR