



# Multifamily Selling and Servicing Guide

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## Section 302 Borrower Organizational Structure

### 302.01 Single-Asset Entity

#### Requirements

You must ensure that

- the Borrower is a domestic single-asset entity, and
- if the Borrower is ultimately owned by foreign persons or entities, it has at least 1 domestic tier of ownership.

#### Guidance

As you analyze the Borrower and its organizational documents to confirm that it is a single-asset entity, 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?
- Except for the Mortgage Loan, 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 the Borrower does not have any direct or indirect equity interest 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 Co-Tenant Borrower has no more than 10 co-tenants;
- no co-tenant is an individual;
- 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](#); and
- each co-tenant 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.



- 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, each Key Principal must become a Guarantor and execute either a Non-Recourse Guaranty or Payment Guaranty.



## Glossary

### B

**Borrower** Person who is the obligor under the Note.

**Synonyms**

- Borrowers
- Borrower's

### C

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

**Synonyms**

- Co-Tenant Borrowers

### G

**Guarantor** Key Principal or other Person who executes a Payment Guaranty, a Non-Recourse Guaranty, or any other guaranty in connection with the Mortgage Loan.

**Synonyms**

- Guarantors

**Guaranty** Payment Guaranty, Non-Recourse Guaranty, or other guaranty by a Guarantor for the Mortgage Loan.

### K

**Key Principal** Person(s) who control and/or manage the Borrower or the Property, are critical to the successful operation and management of the Borrower and the Property, and who may be required to provide a Guaranty.

**Synonyms**

- Key Principals

### L



**Lender** Person approved by Fannie Mae to sell or service Mortgage Loans.

**Synonyms**

- Lenders
- Lender's

**Lien** Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind.

**Synonyms**

- Liens

**Loan Documents** All documents evidencing, securing, or guaranteeing the debt obligation executed for a Mortgage Loan and approved by Fannie Mae.

**Synonyms**

- Loan Document
- Mortgage Loan Document
- Mortgage Loan Documents

## M

**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

## N

**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

## P



## Payment Guaranty

Guaranty executed by a Key Principal on Form 4502 series or [Form 6020 series](#), or approved by Fannie Mae.

## Property

Multifamily residential property securing the Mortgage Loan and including the land (or Leasehold interest in land), Improvements, and personal property (as defined in the Uniform Commercial Code).

### **Synonyms**

- Properties
- Property's