Fannie Mae®

Multifamily Selling and Servicing Guide

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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.

If the Borrower (or the Person owning an interest in the Borrower) is a...	Then a Principal is...
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.
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%

Equity Owner	Role	Direct Ownership % in Borrower	Member Equity Owner and % Interest	Aggregate Indirect Ownership % in Borrower
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%
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 funds expiration date;
- any extension to the funds 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.

Glossary

B

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 Administrations System for Award Management (SAM) exclusion list.
Borrower	Person who is the obligor per 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

D

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 Maes satisfaction. **Synonyms** • Deliver • Delivered • Deliveries

F

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

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.
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

P

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

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 investment made solely for the allocation of LIHTCs; or - preferred 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 or a promote return 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.
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

S

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.
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
Structured Common Equity	Equity interests in the Borrower's organizational structure (not including Preferred Equity) where the investor has: • Forced Sale rights; or • Control Takeover rights.

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