Fannie Mae®

Multifamily Selling and Servicing Guide

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Section 104 Representations

Requirements

When you Deliver a Mortgage Loan to Fannie Mae you represent that:

- At all times during the origination and underwriting of the Mortgage Loan, you were authorized to transact business in the Property's jurisdiction. If you were not authorized, then none of your activities related to the Mortgage Loan requires authorization to transact business in the Property's jurisdiction.
- If the laws of the Property's jurisdiction do not require you to be authorized to do business, then this lack of authorization will not adversely affect the mortgagees ability to enforce the Mortgage Loan.
- You are the sole owner and holder of the Mortgage Loan and have full right and authority to sell the Mortgage Loan to Fannie Mae.
- Your right to sell the Mortgage Loan to Fannie Mae is not subject to any other partys interest or Lien, or to any agreement with any other party.
- You complied with all applicable federal or state laws, regulations, or other requirements regarding
  - fair lending,
  - fair housing,
  - consumer credit,
  - equal credit opportunity,
  - truth-in-lending, and
  - the prohibition of redlining and other forms of discrimination.
- Unless modified by Fannie Maes Pre-Review approval, the Mortgage Loan meets
  - the requirements of the Guide,
  - the Form 4660, and
  - all applicable requirements of your Lender Contract.
- No Person on the Restricted Person List performed any service for, or was involved in any way with, the Mortgage Loan's
  - underwriting,
  - closing, or

- Delivery.

- The Mortgage Loan either meets or is exempt from any usury laws or regulations.
- The Loan Documents you deliver to Fannie Mae are the appropriate and correct forms for the particular transaction under the Guide and contain the same provisions as those provided to you by Fannie Mae (except for completion of blanks, deletion of bracketed information which is not applicable, and other changes approved by Fannie Mae).
- The Borrower is not in default under any of the terms of the Loan Documents and would not be in default under any of the terms of the Loan Documents with the passage of time, the giving of notice, or both.
- The terms and conditions of the Mortgage Loan (as reflected in the Loan Documents) have not been amended, modified, or supplemented by
  - any other agreement or understanding of the parties, or
  - waiver of any of the material provisions of those Loan Documents.
- All documents that evidence, secure, or otherwise relate to the Mortgage Loan have been delivered to Fannie Mae. If you are not the actual party assigning the Mortgage Loan to Fannie Mae because of the financing structure (e.g., a variable rate bond transaction), you make this representation only to the best of your knowledge.
- The Mortgage Loan has not been satisfied, cancelled, released, or subordinated, and Fannie Mae has approved in writing any material modification to the Mortgage Loan occurring after the Mortgage Loan Origination Date, including any change in the:
  - Mortgage Loan amount, Gross Note Rate, Maturity Date, amortization period, or timing of payments;
  - Collateral or Lien priority;
  - reserve types required per the Loan Documents or their release provisions;
  - Mortgage Loan recourse provisions, including the addition of new non-recourse carveouts;
  - Borrower's organization type; or
  - Persons personally liable for the Mortgage Loan, including any Payment Guaranty or additional credit enhancement.
- The Lien on the Collateral identified in the Transaction Approval Memo is valid.
- The Borrower has properly signed the Loan Documents; they are valid and enforceable obligations of the Borrower, subject to bankruptcy,

reorganization, or insolvency laws, or other general principles of equity.

- To the best of your knowledge, as of the Delivery of the Mortgage Loan:
  - the Property does not have any subordinate loans that have not been pre-approved by Fannie Mae;
  - the Property has not been damaged by any Catastrophic Event;
  - the Property has not been condemned or been a part of any proceeding that would impair
    - the value of the Mortgage Loan,
    - the value of the Property, or
    - the usefulness of the Property for the contemplated purpose; and
  - there are no proceedings pending or contemplated to partially or totally condemn the Property.
- To the best of your knowledge:
  - the credit reports and financial statements relating to the Borrower(s) (and to any other person or entity required by the Guide) correctly reflect the financial condition of these person(s) without material exception; and
  - as of the Delivery of the Mortgage Loan, none of the following is the subject of an existing or contemplated bankruptcy, reorganization, insolvency, or comparable proceeding
    - any Borrower,
    - any general partner of a Borrower,
    - any Key Principal,
    - any Guarantor, or
    - any other party whose bankruptcy could negatively impact one of these parties.
- If the Mortgage Loan is insured or guaranteed by any Person, including any governmental authority
  - you have ensured that insurance or Guaranty is in effect, and
  - you have complied with all applicable provisions of the insurance or Guaranty that covers the Mortgage Loan.
- The Property is free of all mechanics, materialmens, or similar Liens, and there are no rights outstanding that could cause such liens. (The only exceptions are mechanics or materialmens Liens which attach automatically under the laws of any governmental authority when work is

started or materials are delivered to the Property and the Borrower is not delinquent in the payment for this work or materials).

- You have not made or knowingly received from others, any advance of funds (directly or indirectly) on behalf of the Borrower connected with the Mortgage Loan transaction, except for funds permitted in the Guide or related to interest paid from the earliest of the:
  - date of the Note;
  - date the Mortgage Loan proceeds were disbursed to the Borrower; or
  - date 1 month before the first installment of P&I on the Mortgage Loan is due.
- To the best of your knowledge, based solely on the survey and the title insurance policy connected with the origination of the Mortgage Loan (except for encroachments that do not materially and adversely affect the current marketability or principal use of the Property, or that are insured against by the title insurance policy):
  - all material improvements used to determine the appraised value of the Property when the Mortgage Loan was originated are within the boundaries of the Property;
  - no material improvements on adjoining parcels encroach onto the Property; and
  - no material improvements encroach onto any easements.
- To the best of your knowledge, nothing involving the Mortgage Loan, the Property, or the Borrower can reasonably be expected to:
  - cause private institutional investors to regard the Mortgage Loan as an unacceptable investment;
  - cause the Mortgage Loan to become delinquent; or
  - adversely affect the Mortgage Loan's value or marketability.
- If the Mortgage Loan provides that the interest rate or principal balance may be adjusted, Fannie Mae may enforce the terms of the Mortgage Loan, and these adjustments will not affect the priority of the Lien.
- All Mortgage Loan proceeds were funded on the Mortgage Loan Origination Date
  - directly to or for the benefit of the Borrower, or
  - to fund reserves or escrows per the Loan Documents.
- All electronic data you submit is accurate and complete.
- If Fannie Maes interest in the Mortgage Loan is a Participation Interest, all

of the information and statements in any participation certificate that you deliver are complete, correct, and true.

Guidance

Redlining is illegal and occurs when a lender provides unequal access to credit, or offers unequal credit terms, because of the race, color, national origin, or other prohibited characteristics of the residents of the area in which the mortgaged property is located.

You may consider locational factors when appraising and underwriting if your risk analysis applies Fannie Mae's guidelines in a consistent, equitable, and legal manner.

Glossary

A

Appraised Value	Appraisers opinion of the Property's market value documented in the Appraisal, on an as is basis, unless use of an as completed basis is specifically permitted per the Guide. **Synonyms** • Appraised Values

B

Bonds	Tax-exempt or taxable multifamily revenue bonds, or other tax-exempt or taxable bonds, issued to finance 1 or more Credit Enhancement Mortgage Loan Properties. **Synonyms** • Bond
Borrower	Person who is the obligor per the Note. **Synonyms** • Borrowers • Borrower's

C

Catastrophic Event	Natural or man-made hazard resulting in an event of substantial extent causing
	• significant physical damage or destruction,
	• loss of life, or
	• drastic change to the natural environment, such as
	  - earthquake,
	  - flood,
	  - terrorist attack, or
	  - windstorm.
	
	Synonyms
	• Catastrophic Events

Collateral	Property, Personal Property, or other property securing a Mortgage Loan.

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

Form 4660	Multifamily Underwriting Standards identifying Pre-Review Mortgage Loans and containing the underwriting requirements (e.g., debt service coverage ratio, loan to value ratio, interest only, underwriting floors, etc.) for all Mortgage Loans. **Synonyms** • Multifamily Underwriting Standards

G

Gross Note Rate	Mortgage Loan interest rate stated in the Loan Documents.
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

I

Improvements	Buildings, structures, improvements, and alterations, including the multifamily housing dwellings, now or hereafter constructed or placed on the Property, including all fixtures (as defined in the UCC). **Synonyms** • Improvements'
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 Contract	Program Documents per the Multifamily Selling and Servicing Agreement. **Synonyms** • Lender’s Contract • Lender Contracts • Contract • Multifamily Selling and Servicing Agreement • MSSA
Lien	Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind. **Synonyms** • Liens
Loan Documents	All Fannie Mae-approved documents evidencing, securing, or guaranteeing the Mortgage Loan. **Synonyms** • Loan Document • Mortgage Loan Document • Mortgage Loan Documents

M

Maturity Date	Date all Mortgage Loan amounts become fully due and payable per the Loan Documents. **Synonyms** • Maturity Dates

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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 Origination Date	Date you fund a Mortgage Loan to the Borrower. **Synonyms** • Mortgage Loan's Origination Date • Origination Date

N

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

P&I	Principal and interest

Participation Interest	Undivided interest in a Mortgage Loan per the participation certificate for a specified percentage of principal (and proportionate rights and benefits of the Participation Interest seller in any Mortgage Loan collateral or guaranty), and a specified yield. **Synonyms** • Participation Interests
Payment Guaranty	Guaranty executed by a Key Principal on Form 4502 series or Form 6020 series, or approved by Fannie Mae.
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
Pre-Review	Requirement that you obtain Fannie Maes approval before you Rate Lock a Mortgage Loan.

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

Subordinate Loan	Multifamily residential real estate loan secured by a Lien against the Property having a lesser priority than the Lien securing another multifamily residential real estate loan on the same Property. **Synonyms** • Subordinate Loans