



Multifamily Selling and Servicing Guide

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Section 310 Conflict Mortgage Loans

310.01 Description

Requirements

Conflict Mortgage Loan Type	
Conflict Mortgage Loan	<ul style="list-style-type: none"> Any Mortgage Loan in which <ul style="list-style-type: none"> a Lender, any Lender Affiliate, or any Lender Senior Executive owns (or will own) any direct or indirect equity interest in the Borrower, or any Lender employee, or group of employees, owns (or will own) more than a 5% direct or indirect equity interest in the Borrower. Any Mortgage Loan with DLA Mezzanine Financing. <p>Any equity interest that is acquired only to benefit the LIHTC will not be counted when determining if a Mortgage Loan is a Conflict Mortgage Loan (see Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 709: LIHTC Properties Lender Equity Interest).</p>
Prohibited Conflict Mortgage Loan	<p>Any Mortgage Loan in which</p> <ul style="list-style-type: none"> the Lender or any single Lender Senior Executive owns more than a 5% direct or indirect equity interest in the Borrower, or any group of Lender Senior Executives together owns more than a 10% direct or indirect equity interest in the Borrower.



Conflict Mortgage Loan Type	
Controlling Conflict Mortgage Loan	<p>Any Conflict Mortgage Loan where:</p> <ul style="list-style-type: none">• the Lender<ul style="list-style-type: none">- 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- owns any Preferred Equity in the Borrower;• any Lender Affiliate or employee or group of employees of the Lender or any Lender Affiliate<ul style="list-style-type: none">- 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 Lender Senior Executive owns any direct or indirect equity interest in the Borrower.

You must not Deliver a Prohibited Conflict Mortgage Loan.



310.02 Restrictions

310.02A 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 complete ownership structure of the Borrower,
 - the relationship among the Lender, Borrower, and applicable Lender Affiliate, and
 - the percentage ownership of each entity.

Operating Procedures

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



310.02B 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.

310.02C 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.

310.02D 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.

310.02E 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

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

B

Borrower

Person who is the obligor under the Note.

Synonyms

- Borrowers
- Borrower's

C

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.

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

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

Lender Affiliate

Other Person or entity that Controls, is Controlled by, or is under common Control with, the Lender.



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, or substantially equivalent position;
- b. individual with voting or approval rights over whether the Lender commits to make a Mortgage Loan; or
- c. family member of, or individual having a close relationship with, any individual identified in (a) or (b).

Synonyms

- Lender Senior Executives

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

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



Multifamily Asset Management

Team that can be contacted at drawer_am@fanniemae.com.

N

Non-Performing Mortgage Loan

Mortgage Loan that is subject to an uncured default.

Synonyms

- Non-Performing Mortgage Loans
- Non-Performing

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

Principal

Person who owns or controls 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 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

S



Servicer

Primary Person responsible for servicing the Mortgage Loan (e.g., the originator, the selling Lender, or a third-party servicer).

Synonyms

- Servicers

T

Transfer/Assumption

Transaction resulting in a change in the ownership of the Borrower or Property.

Synonyms

- Transfers/Assumptions