



Fannie Mae®

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# Multifamily Selling and Servicing Guide

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## **408.02** Achievement Agreement or Other Agreement for Additional Collateral

### **408.02A** General

The provisions of this Section govern Achievement Agreements and all Collateral Agreements, other than:

- Multifamily Loan Agreements, including the Completion/Repair Schedule and Replacement Reserve Schedule;
- Security Instruments;
- Replacement Reserve Agreements; and
- Completion/Repair Agreements.

The Servicer must maintain an effective system for monitoring the expiration date of any Achievement Agreement or other Collateral Agreement, and ensure that all actions required to be taken pursuant to any such agreement have been timely performed and, if not timely performed, immediately notify Multifamily Asset Management.

### **408.02B** Releases or Reductions in Collateral

Any request for a release or reduction of collateral must be processed in accordance with this Section, unless these instructions conflict with the terms and conditions of the Achievement Agreement or other Collateral Agreement.

#### **1. General**

If the Borrower has not satisfied the requirements for a release or reduction of collateral contained in the Achievement Agreement or other Collateral Agreement, the Servicer must not approve the Borrower request, and may decline the Borrower request without notice to Fannie Mae. If the Servicer determines that the Borrower has satisfied the requirements of the Achievement Agreement or other Collateral Agreement, the Servicer must recommend the release or reduction of collateral through the MAMP, accompanied by the supporting documentation listed below. Upon receipt and review of all pertinent information, Fannie Mae will approve or deny the request and notify the Servicer of its decision.

#### **2. Supporting Documentation and Analysis**

The following documentation must be submitted through the MAMP, and maintained in the Servicing File, in connection with each request for a release or reduction of collateral

##### **(a) Income and Expense Statements; Current**



## Rent Roll

Property income and expense statements and a current rent roll must be obtained from, and certified by, the Borrower. The statements must cover the applicable period required by the Achievement Agreement or other Collateral Agreement. Based on the Loan Documents, Parts I - III, the certified income and expense statements, and the current rent roll, the Servicer must develop a Net Cash Flow estimate to determine whether the release or reduction provisions of the applicable Achievement Agreement or other Collateral Agreement are satisfied. The income, vacancy, collection loss, and concession information should support the Effective Gross Income that the Servicer is relying on in assessing whether a release or reduction is warranted.

In deriving its estimate of Effective Gross Income, the Servicer must adjust for:

- income that was not allowed or recognized in the original underwriting;
- the effect of a partial year's performance when the shorter period reflects the short-term, positive impact from seasonal variations that do not reflect the Property's year-round performance; and
- non-monetary concessions, requiring the Servicer to deduct the pro-rata value of the concession from the monthly rent for the applicable unit.

The Servicer must ensure that all appropriate types of expenses, including underwritten Replacement Reserve deposits, are included, and that any inappropriate expenses (e.g., capital improvement costs, repair costs covered by funds set aside for Completion/Repairs, partnership costs, etc.) are excluded. To avoid unwarranted releases or reductions of collateral, the expense figures must reflect stabilized operating conditions, and must not be understated due to efficiencies or savings that could not be replicated by a different owner or manager, or that would not be recognized for underwriting purposes.

The Servicer must perform a line-by-line expense analysis, including a comparison of the original underwriting estimates with the actual expenses shown on the Borrower's income and expense statements. The Servicer must use the greater of the underwritten or the actual expense figure shown for each item on the Borrower's statement.



### **(b) Servicer's Analysis**

The Servicer must provide an analysis and recommendation regarding the release or reduction of collateral, including any calculations required under the terms of the applicable Achievement Agreement or other Collateral Agreement.

### **(c) Correspondence**

The Servicer must provide any correspondence with the Borrower that pertains to the release or reduction request.

## **3. Property Inspection**

Before approving any request for a release or reduction of collateral, the Servicer must perform a physical inspection of the Property to verify that:

- no deferred maintenance exists;
- necessary capital improvements have been made; and
- the general management and operations are acceptable and characteristic of a stabilized project.

The Servicer's inspection must occur no more than 90 days prior to the date of the submission to Fannie Mae of the release or reduction request. The Servicer must document the results of its inspection by completing the MBA Standard Inspection Form.

## **408.02C** Draws on Letters of Credit or Application of Other Collateral

### **1. Draws Triggered by Adverse Events**

The Servicer must promptly notify Multifamily Asset Management when any of the following events occur, which could result in a draw on a Letter of Credit issued for an Achievement Agreement or other Collateral Agreement:

- a default under the Loan Documents, including the Achievement Agreement or other Collateral Agreement;
- the failure to renew or replace an expiring Letter of Credit at least 30 days prior to its expiration date, or other deadline specified in the Achievement Agreement or other Collateral Agreement; or
- the failure to replace a Letter of Credit by the replacement deadline when the Issuer is no longer acceptably rated.

The Servicer's notice to Fannie Mae must include a recommended course of action, and be accompanied by a copy of the



executed Achievement Agreement or other Collateral Agreement.

## **2. Draw Resulting from Noncompliance with Issuer Rating Requirements or Expiration of Letter of Credit**

If a draw on the Letter of Credit occurs due to noncompliance with the rating requirements for the Issuer or because of an imminent expiration of the Letter of Credit, Fannie Mae will hold the Letter of Credit proceeds in its designated account until the earliest of the following:

- the Borrower presents a replacement Letter of Credit and Fannie Mae agrees, in its sole discretion, to accept the Letter of Credit;  
(NOTE: Any agreement by Fannie Mae to accept a replacement Letter of Credit will be conditioned upon the Borrower's payment of all administrative and legal costs incurred by the Servicer and Fannie Mae in connection with the replacement of the Letter of Credit.)
- the release or reduction provisions of the applicable Achievement Agreement or other Collateral Agreement are satisfied; or
- the Borrower pays all amounts due and payable under the Loan Documents, including any required Prepayment Premium, and Fannie Mae releases the Lien of the Security Instrument.

## **3. Draws Occasioned by Borrower Request**

If the Servicer receives a request from the Borrower to draw on the Letter of Credit and have the proceeds applied as a partial prepayment against the UPB, and the Loan Documents allow partial prepayments, the Servicer must immediately forward the request, along with an analysis and recommendation, including an estimate of the applicable Prepayment Premium, to Fannie Mae. If the Loan Documents do not allow partial prepayments, the Servicer must deny the Borrower request.

Fannie Mae will assess the Borrower request and determine if the proposed use of the Letter of Credit proceeds or other collateral would be in the best interest of Fannie Mae and/or the Investor in any Securitized Mortgage Loan. **Any decision to apply Letter of Credit proceeds or apply other collateral to a partial prepayment will be made by Fannie Mae in its sole discretion.** Fannie Mae will notify the Servicer of its determination and will provide appropriate follow-up instructions.

## **4. No Interest on Proceeds Held by Fannie Mae**

Fannie Mae will not pay interest on the cash proceeds it holds



resulting from a draw on a Letter of Credit.

**408.02D** Releasing Additional Escrows for Principal and Interest, Taxes and Insurance, and Replacement Reserves

Notwithstanding anything contained in this Chapter, if no Event of Default has occurred and is continuing under any of the Loan Documents (including Forbearance), the Servicer is delegated the authority to waive any Loan Document requirement prohibiting the Servicer from immediately approving a partial or final disbursement request of Additional Escrows for P&I, T&I, and Replacement Reserves required by:

- **Form 6268** – Modifications to Multifamily Loan and Security Agreement (Additional Reserve Escrows);
- **Form 6640** – Amendment to Multifamily Loan and Security Agreement (Additional P&I Escrow Agreement); or
- **Form 6641** – Additional P&I Escrow Agreement (4000 series Loan Documents).

The Servicer is delegated the authority to:

- determine whether the waiver requires a Loan Document amendment; and
- document any amendment in any form the Servicer determines to be legally enforceable.

Servicers must document all disbursement requests, including any supporting documentation and analysis, in the Servicing File.



# Glossary

## A

**Achievement Agreement** Agreement requiring the Borrower to provide a letter of credit, cash, or guaranty as additional collateral to support the Mortgage Loan amount and specifying the terms for releasing the collateral.

### **Synonyms**

- Achievement Agreements

## B

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

### **Synonyms**

- Borrowers
- Borrower's

## C

**Collateral Agreement** Agreement granting a security interest in Mortgage Loan collateral not covered by the Security Instrument.

### **Synonyms**

- Collateral Agreements

**Completion/Repair Schedule** The Required Repair Schedule to the Multifamily Loan Agreement ([Form 6001 series](#)) and the applicable parts of the Multifamily Loan Agreement, or other Fannie Mae-approved agreement, evidencing:

- the Borrower's agreement to
  - fund the Completion/Repair Escrow, and
  - perform Completion/Repairs; and
- Completion/Repair Escrow disbursement terms.

### **Synonyms**

- Completion/Repair Schedules



## Completion/Repairs

Repairs or capital item replacements and deferred maintenance:

- identified per the Property Condition Assessment; and
- required per the
  - Completion/Repair Schedule, or
  - Completion/Repair Agreement.

### **Synonyms**

- Completion/Repair

## E

### Effective Gross Income

On an annual basis or any specified period, the total of Net Rental Income plus other income per [Part II, Chapter 2: Valuation and Income, Section 203: Income Analysis](#) and the applicable products and features in Part III.

### **Synonyms**

- EGI

## I

### Investor

MBS Investor for an MBS Mortgage Loan, or Fannie Mae for a Cash Mortgage Loan.

### **Synonyms**

- Investors
- Investor's

### Issuer

Entity that:

- issues Bonds for a Credit Enhancement Mortgage Loan;
- packages mortgages for sale as a Security for an MBS; or
- issues a Letter of Credit.

### **Synonyms**

- Issuers

## L



## 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

## Loan Documents

All Fannie Mae-approved documents evidencing, securing, or guaranteeing the Mortgage Loan.

### **Synonyms**

- Loan Document
- Mortgage Loan Document
- Mortgage Loan Documents

## **M**

## MAMP

Multifamily Asset Management Portal used to submit

- Property inspections,
- operating statements,
- requested modifications,
- asset management reports, and
- data corrections for loan or property attributes.

### **Synonyms**

- Multifamily Asset Management Portal
- MAMP's



MBA Mortgage Bankers Association

**Synonyms**

- MBA's

Multifamily Asset Management Team that can be contacted at [drawer\\_am@fanniemae.com](mailto:drawer_am@fanniemae.com).

**N**

Net Cash Flow On an annual basis or any specified period, the total Net Operating Income, minus the full amount underwritten for Replacement Reserve expense, regardless of whether deposits will be made (per Part II, Chapter 2: Valuation and Income, Section 203: Income Analysis and the applicable products and features in Part III).

**Synonyms**

- NCF

**P**

P&I Principal and interest

Prepayment Premium For a Mortgage Loan prepayment, amount the Borrower must pay in addition to the prepaid principal and accrued interest per the Loan Documents.

**Synonyms**

- Prepayment Premiums



## 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

## R

### Replacement Reserve

Custodial Account the Borrower funds during the Mortgage Loan term for Replacements.

### **Synonyms**

- Replacement Reserves

### Replacement Reserve Schedule

The Required Replacement Schedule to the Multifamily Loan Agreement ([Form 6001 series](#)) and the applicable parts of the Multifamily Loan Agreement (or other agreement approved by Fannie Mae), that evidence the:

- Borrower's agreement to replace identified capital items and perform required maintenance;
- terms for funding the identified capital item replacement and maintenance; and
- disbursement of Replacement Reserve funds.

### **Synonyms**

- Replacement Reserve Schedules

## S

### Securitized Mortgage Loan

Mortgage Loan backing an MBS, PFP MBS, or REMIC.

### **Synonyms**

- Securitized Mortgage Loans



## 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

## U

### UPB

Unpaid Principal Balance

### **Synonyms**

- UPBs