Fannie Mae®

Multifamily Selling and Servicing Guide

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Section 221 Internal Revenue Service Reporting Requirements

221.01 What to Report

The Servicer must comply with Internal Revenue Service reporting requirements for:

- reporting the receipt of $600 or more of interest payments from any Borrower who is a natural person (IRS Form 1098);
- filing Statements for Recipients of Miscellaneous Income (IRS Form 1099-MISC) to report payments of fees and related expenses to attorneys and other third parties in connection with foreclosure or liquidation proceedings in connection with a Mortgage Loan and the related Property;
- filing notices of Acquisition or Abandonment of Secured Property (IRS Form 1099-A) to report the acquisition of a Property by foreclosure or acceptance of a deed-in-lieu or by a Borrowers abandonment of a property; and
- filing notices of Cancellation of Debt (IRS Form 1099-C) to report the cancellation of any part of a Borrowers indebtedness.

Should the Internal Revenue Service change the reporting requirements in connection with any of IRS Form 1098, IRS Form 1099-MISC, IRS Form 1099-A or IRS Form 1099-C, the Servicer must comply with those changed reporting requirements, notwithstanding anything to the contrary contained in this Chapter. The Servicer should contact Fannie Mae if it believes any portion of this Chapter to be in conflict with such Internal Revenue Service reporting requirements.

221.02 Filing IRS Form 1099 MISC

The Servicer must report all attorney (or trustee) fees paid by the Servicer to Servicer-retained attorneys or trustees or to Fannie Mae-retained attorneys or trustees for handling foreclosure proceedings, by filing Form 1099-MISC (Miscellaneous Income) with the Internal Revenue Service and other parties. This form must be filed in the Servicer's name, using its Internal Revenue Service tax identification number.

If the Servicer pays for any expenses authorized by Fannie Mae for the maintenance, repair, or marketing of an REO Property, or when the Servicer pays directly any business that is not a corporation for recurring maintenance costs, minor repair costs, or routine costs in connection with an REO Property, the Servicer must report such payments to the Internal Revenue Service. To accomplish this, the Servicer must prepare an IRS

Form 1099-MISC (Miscellaneous Income) for the appropriate tax year and submit it to the Internal Revenue Service and to the individual payee. This form must be filed in the Servicer's name, using its Internal Revenue Service taxpayer identification number.

221.03 Notifying the Internal Revenue Service about Abandonments or Acquisitions (IRS Form 1099-A)

221.03A When Required

The Internal Revenue Service requires that information returns be filed when Fannie Mae (or a third party) acquires an interest in a Property in full or partial satisfaction of the Mortgage Loan or when Fannie Mae or the Servicer has reason to know that a Property has been abandoned. The Servicer must file these notices on Fannie Mae's behalf, using IRS Form 1099-A (Acquisition or Abandonment of Secured Property), for all applicable Mortgage Loans (including Mortgage Loan participations if Fannie Mae's percentage ownership of such Mortgage Loan is 50% or greater).

The Servicer must satisfy the reporting requirements for the owner of record (instead of on Fannie Mae's behalf) when the Servicer purchased a delinquent Mortgage Loan from Fannie Mae before the Property was acquired by the Servicer in full or partial satisfaction of the Mortgage Loan.

For purposes of filing these reports:

- Fannie Mae (or the owner of record) acquires an interest in the Property when any redemption period that follows a foreclosure sale ends without redemption rights being exercised (or when Fannie Mae accepts a deed-in-lieu of foreclosure);
- A third party acquires an interest in the Property at the foreclosure sale; and
- Abandonment occurs when Fannie Mae or the Servicer has reason to know from all facts and circumstances concerning the status of the Property that the Borrower intended to discard or has permanently discarded the Property from use. The Servicer, however, will have an additional three months before its reporting obligation arises if the Servicer expects foreclosure proceedings to begin within the three months after determination that abandonment has occurred.

After an event that triggers a reporting requirement occurs, IRS Form 1099-A must be filed on or before February 28 (or March 31 if filing electronically) of the year following the calendar year in which the event occurred. The Servicer also must furnish the Borrower with an information statement on or before January 31 of that year. The requirement for notifying the Borrower can be satisfied by sending Copy B of a completed IRS Form 1099-A to the Borrower's last known address. When the form is

filed on Fannie Mae's behalf, it must show Fannie Mae's name, address, and federal identification number (52-0883107), and include a legend stating that the information is being reported to the Internal Revenue Service. If it is filed by the Servicer on its own behalf or for the owner of record, the name, address, and identification number of the Servicer or owner of record, respectively, must be provided instead.

221.03B Preparing IRS Form 1099-A

The Servicer is responsible for completing the IRS Form 1099-A accurately, for filing it with the Internal Revenue Service, and for providing the information to the Borrower and to Fannie Mae by the required dates. If the Internal Revenue Service penalizes Fannie Mae because a Servicer failed to file a return or filed an incorrect return or late return, Fannie Mae will require the Servicer to reimburse Fannie Mae for any penalty fees the Internal Revenue Service assesses (unless the Servicer can document that it met the filing requirements).

Information that must be reported on IRS Form 1099-A includes:

- the Borrower's taxpayer identification number (the Social Security number if the borrower is a natural person);
- the date of acquisition of an interest in the Property or the date the Servicer acquired knowledge of the abandonment;
- the outstanding UPB of the Mortgage Loan;
- a general description of the Property; and
- whether the Borrower is personally liable for the debt and, if personally liable, the fair market value of the Property at the time of acquisition.

221.04 Notifying the Internal Revenue Service about Cancellations of Indebtedness (IRS Form 1099-C)

221.04A When Required

The Internal Revenue Service requires certain mortgage holders, including Fannie Mae, to file information returns when $600 or more of a Mortgage Loan is cancelled. Except as provided in Part V, Chapter 2: Reporting and Remitting, Section 221.04D: Exceptions to IRS Form 1099-C Reporting, the Servicer must file these returns on Fannie Mae's behalf, using IRS Form 1099-C, for all applicable Mortgage Loans (including Mortgage Loan participations if Fannie Mae's percentage ownership of such Mortgage Loan is 50% or greater). If, in the same calendar year, a Mortgage Loan is canceled in connection with a foreclosure or abandonment of secured property, it is not necessary to file both Form 1099-A and Form 1099-C for the same Borrower. Only Form 1099-C need be filed, and the

Form 1099-A filing requirement for the Borrower will be met by completing boxes 4, 5, and 7 on Form 1099-C.

221.04B Determining When a Debt Is Cancelled

A debt is cancelled (in whole or part) when any of the following occur:

- discharge in bankruptcy under Title 11 of the U.S. Code;
- receivership, foreclosure, or similar federal or state court proceeding makes the debt unenforceable;
- the statute of limitations applicable to collecting the debt expires (if so determined by a court and any appeal period has expired), or expiration of the statutory period for filing a claim or beginning a deficiency judgment proceeding;
- foreclosure remedies by law end or bar Fannie Maes right to collect the debt (e.g., foreclosure by exercise of the power of sale in the Security Instrument);
- probate or similar proceeding cancels or extinguishes the debt;
- Fannie Mae and the Borrower agree to cancel the debt at less than full consideration;
- a decision or defined policy of Fannie Mae causes collection activity to be discontinued and the debt to be cancelled; or
- expiration of a non-payment testing period.

The Internal Revenue Service presumes that a debt is cancelled during a calendar year if no payment has been received on the Mortgage Loan during a period (the non-payment testing period) of 36 months, plus the number of calendar months when collection activity was precluded by a stay in bankruptcy or similar bar under state or local law. The presumption may be rebutted, however, if there has been significant, bona fide collection activity at any time during the calendar year, or if facts and circumstances, existing as of January 31 of the calendar year following expiration of the 36-month period, indicate that the indebtedness has not been discharged.

221.04C Preparing IRS Form 1099-C

The Servicer is responsible for completing the Cancellation of Debt (IRS Form 1099-C) accurately, and for filing it with the Internal Revenue Service and providing the information to the Borrower and to Fannie Mae by the required dates. The form must be filed on or before February 28 (or March 31 if filing electronically) of the year following the calendar year in which the discharge of indebtedness occurs.

If the Internal Revenue Service penalizes Fannie Mae because the

Servicer failed to file a return or filed an incorrect or late return, Fannie Mae will require the Servicer to reimburse Fannie Mae for any penalty fees the Internal Revenue Service assesses (unless the Servicer can document that it met the filing requirements).

The Servicer also must furnish the Borrower with an information statement before January 31 of that year. The requirement for notifying the Borrower can be satisfied by sending Copy B of a completed IRS Form 1099-C (or a substitute statement that complies with Internal Revenue Service requirements for substitute forms) to the Borrower's last known address, and the Servicer must send Copy C to those states that require it. When the form is filed on Fannie Mae's behalf, it must show Fannie Mae's name as the Creditor, Fannie Mae's address and federal identification number (52-0883107), and include a legend identifying the statement as important tax information that is being furnished to the Internal Revenue Service.

Information that must be reported on IRS Form 1099-C includes:

- the Borrower's name, address, and taxpayer identification number (the Social Security number if the borrower is a natural person);
- the date the debt was cancelled;
- the amount of the cancelled debt, which does not include interest or any amount received in satisfaction of the debt from a foreclosure sale or other means;
- a description of the debt, such as mortgage loan, and a description of the Property if a combined IRS Form 1099-C and 1099-A is filed;
- whether the Borrower is personally liable for the debt;
- whether the debt was cancelled in bankruptcy; and
- the fair market value of the Property if a combined IRS Form 1099-C and 1099-A is filed.

If the cancelled Mortgage Loan had an original principal amount of $10,000 or more, was originated after 1994, and involves Borrowers who are jointly and severally liable for the debt, a separate information return for each Borrower must be filed, and each return must report the entire amount of the cancelled debt. If the Mortgage Loan was originated prior to January 1, 1995, or if the original principal amount of the cancelled Mortgage Loan was less than $10,000, and if there are multiple Borrowers, reporting is required only with respect to the primary (or first-named) Borrower. In addition, only one information return is required, regardless of the origination date or the original principal amount, if the Servicer knows, or has reason to know, that co-Borrowers were husband and wife living at the same address when the Mortgage Loan was originated, and does not know or have reason to know

that such circumstances have changed when the Mortgage Loan is cancelled.

221.04D Exceptions to IRS Form 1099-C Reporting

Interest. Interest need not be reported. If it is reported as part of the cancelled debt, the IRS Form 1099-C instructions require that it be shown in a separate box on the form.

Non-principal amounts. Cancellation of amounts other than stated principal, including penalties, fines, fees, and administrative costs charged to the Borrower, need not be reported.

Release of a co-Borrower. IRS Form 1099-C need not be filed when one Borrower is released from a Mortgage Loan as long as the remaining Borrowers are liable for the full UPB of the Mortgage Loan.

Guarantor or surety. A guarantor or surety (i.e., any Guarantor or Key Principal executing a Non-Recourse Guaranty or a Payment Guaranty) is not a Borrower for purposes of the debt cancellation reporting requirements, so IRS Form 1099-C is never required.

221.04E Coordination with Reporting Abandonments or Acquisitions

If, in the same calendar year, the Mortgage Loan is cancelled in connection with the acquisition or abandonment of the same Property securing the Mortgage Loan, filing a timely and accurate IRS Form 1099-C will satisfy the requirement to file an IRS Form 1099-A.

221.05 Reporting via Magnetic Media

The Servicer must report IRS Forms 1099-C and 1099-A information on magnetic media and must do so on Fannie Mae's behalf. Even though the Servicer reports to the Internal Revenue Service on magnetic media, it is still responsible for providing a hard copy of the IRS Forms 1099-C or 1099-A, as applicable, to the Borrower (Copy B) and to those states that require it (Copy C). Copy B must be sent to the Borrower no later than January 31.

The Servicer must review each Borrowers Form W-9 for validity and request a new Form W-9 if any form is invalid. A valid W-9 will include the Borrowers name, tax identification number, date, and signature. In preparing Forms 1099-C or 1099-A, the Servicer must (i) utilize the IRS TIN Matching program and perform tax identification number matching for all United States non-exempt Borrowers in all circumstances, (ii) notify Fannie Mae of any Borrower that is identified as an unsuccessful TIN Match prior to preparing Form 1099, and (iii) follow up with any Borrower whose name and tax identification number combination fail the IRS TIN Match. The Servicer should also provide to Fannie Mae its TCC (Transmittal Control Code) at the beginning of each year, which will allow Fannie Mae to communicate to the

Servicer any errors on its 1099 filings.

The Servicer does not need to send Fannie Mae a copy of the magnetic media filed by the Servicer with the Internal Revenue Service. However, to ensure that Fannie Mae can identify the Servicer and the loan number for a specific Mortgage Loan should the Internal Revenue Service contact Fannie Mae for additional information or clarification, the Servicer must:

- insert the following header information when the IRS Form 1099-C or 1099-A, as applicable, is filed on Fannie Mae's behalf:
  - Fannie Mae on the first Payer line; and
  - the Fannie Mae loan number for the related Mortgage Loan on the line for the Payer's account number for Payee; and
- within thirty (30) days after filing with the Internal Revenue Service, send an email to Fannie Mae at multifamily_1099_reporting@fanniemae.com, containing a summary of IRS Forms 1099-C or 1099-A, as applicable, to notify Fannie Mae what the Servicer reported to the Internal Revenue Service on magnetic media.

Glossary

A

Acquisition	Any Purchase of either the: • Propertys fee simple or leasehold interest via a deed transfer; or • Controlling Interest in the Borrower. **Synonyms** • Acquisitions

B

Borrower	Person who is the obligor per the Note. **Synonyms** • Borrowers • Borrower's

C

Control	Possessing, directly or indirectly, the power to direct or cause the management and operations of an entity (e.g., through the ownership of voting securities or other ownership interests, or by contract). **Synonyms** • Controlling • Controlled • Controls

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.

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

Loan Number	10-digit number assigned by Fannie Mae to each Mortgage Loan.

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 • 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

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.
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
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

R

Real Estate Owned	A Property or interest in a Property acquired by Fannie Mae or on behalf of the MBS Trust, through a Foreclosure Event where title to a Property or interests in that Property are transferred to Fannie Mae or the MBS Trust. **Synonyms** • REO • REO's

S

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

U

UPB	Unpaid Principal Balance **Synonyms** • UPBs