



# Multifamily Selling and Servicing Guide

Effective as of August 1, 2019

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## Chapter 8 In Place Loans

### Section 801 General

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Fannie Mae may refinance certain Portfolio Mortgage Loans that do not meet Tier 2 underwriting requirements (“In Place Loans”) if:

- the Property securing the Portfolio Mortgage Loan is in good condition (or requires repairs that can reasonably be made in connection with the refinancing);
- Fannie Mae has had a satisfactory relationship with the Borrower; and
- the Portfolio Mortgage Loan may not realistically be able to be refinanced outside of Fannie Mae.

If Fannie Mae elects to purchase an In Place Loan refinanced by the Lender, special attention will be paid to preserving collateral value and mitigating credit risk by:

- improving the Property condition as necessary in an attempt to generate increased cash flow to repay the Mortgage Loan;
- maintaining the Property in good condition over the term of the In Place Loan by requiring good property management and adequately funded Replacement Reserves; and
- adding risk mitigating loan terms.

### Section 802 In Place Loan Categories

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#### 802.01 Loan Sizing

Portfolio Mortgage Loans are divided into 3 categories:

- Level 1: Portfolio Mortgage Loans that comply with the Guide and meet the minimum Tier 2 requirements of the Form 4660, which are eligible for refinance by the Lender and purchase by Fannie Mae;
- Level 2: In Place Loans that refinance Portfolio Mortgage Loans but do not meet Tier 2 requirements, as described in [Part V, Chapter 8: In Place Loans, Section 802.02: Level 2 In Place Loans](#); and
- Level 3: In Place Loans that refinance Portfolio Mortgage Loans but do not meet Tier 2 requirements, as described in [Part V, Chapter 8: In Place Loans, Section 802.03: Level](#)



### 3 In Place Loans.

To calculate the preliminary loan amount of a Level 2 In Place Loan or a Level 3 In Place Loan, the Lender must use an underwriting interest rate equal to the greater of:

- the rate established using current rates and a Tier 2 Plus/Plus Pricing Structure; or
- the applicable underwriting floor.

The preliminary pricing and loan amount should not be shared with the Borrower until approved in writing by Fannie Mae, as Fannie Mae reserves the right to adjust the final approved pricing, loan structure and loan amount based upon the individual characteristics of the In Place Loan and the Property.

#### **802.02** Level 2 In Place Loans

Level 2 In Place Loans are Portfolio Mortgage Loans that:

- support an Underwritten DSCR not less than 5 basis points below Tier 2 standards and have an LTV not greater than 5 percentage points above Tier 2 standards;
- are subject to the special pricing and fee limitations set forth in [Part IV A, Chapter 2: Pricing, Origination Fees, and Prepayment Premium Incentives](#); and
- following approval by Fannie Mae, are committed and delivered by the Lender using the standard committing and delivery process specified in Part IV.

#### **802.03** Level 3 In Place Loans

Level 3 In Place Loans are Portfolio Mortgage Loans that:

- support an Underwritten DSCR greater than 5 basis points below Tier 2 standards or have a LTV greater than 5 percentage points above Tier 2 Standards;
- may require highly customized loan structures and features;
- are subject to the special pricing and fee limitations specified in [Part IV A, Chapter 2: Pricing, Origination Fees, and Prepayment Premium Incentives](#);
- are committed and delivered using the standard loan committing and delivery process in Part IV; and
- are subject to a post-purchase monitoring process and may require changes in the Lender's Restricted Liquidity



Requirements.

#### **802.04** Level 2 and Level 3 In Place Loans – Generally

If Fannie Mae does not approve an In Place Loan for purchase, then Fannie Mae in its sole discretion (or, for Portfolio Mortgage Loans with loss sharing, Fannie Mae and the Lender, in their joint discretion) may agree to enter into a modification and extension of the Portfolio Mortgage Loan with such additional loan terms as deemed necessary. Any modification or extension of the Portfolio Mortgage Loan, or any new Level 3 In Place Loan refinancing of a Portfolio Mortgage Loan with loss sharing will be subject to Triggering Modification Interim Loss Sharing under the Lender's Loss Sharing Addendum.

### **Section 803** Eligibility Requirements

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A Portfolio Mortgage Loan is eligible to be refinanced by the Lender and the In Place Loan purchased by Fannie Mae if:

- during the 12 months preceding the refinance, the Portfolio Mortgage Loan had a timely payment history;
- no unauthorized transfers or changes of the ownership interest in the Borrower occurred;
- no unauthorized Liens were placed or filed against the Property;
- during the 12 months preceding the refinance, the Property operations were stable or indicated a positive trend;
- the Property meets the underwriting and delivery requirements of the Guide in all respects (physical condition, unit mix, occupancy requirements, capital reserve, etc.), except as specifically modified by this Chapter; and
- the Lender is able to demonstrate in the Transaction Approval Memo that the credit risk of the Portfolio Mortgage Loan is reduced by the refinancing and that the refinancing is not merely a delay of an inevitable foreclosure of the Property that may increase any losses from the Portfolio Mortgage Loan in the process.

### **Section 804** Underwriting Process

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#### **804.01** Generally

Unless specifically modified in this Chapter, an In Place Loan must meet all of the requirements provided in:



- Part I;
- Part II;
- the applicable Part III Chapters based on the specific products and features of the Mortgage Loan; and
- Form 4660.

In all cases, the Lender must exercise prudent judgment and, unless modified by this Chapter, give the same selling and servicing representations and warranties as are required for newly originated Mortgage Loans.

## **804.02** Specific Underwriting Requirements

### **804.02A** Borrower Structure and Experience

No modifications are permitted to the underwriting requirements for the Borrower's structure and experience set forth in [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals](#). A new Underwriting Certificate is required from the Borrower, any Guarantor of the In Place Loan, and any Key Principal. In addition, the Lender must:

- confirm the original underwriting of the organizational structure, experience and creditworthiness of the Borrower, Guarantor, Key Principal, and Principal;
- identify the Guarantor, Key Principals and Principals of the Borrower and report the results of the ACheck for each Borrower, Guarantor, Key Principal, and Principal;
- obtain updated copies of the organizational documents of the Borrower and the Key Principal and confirm that the Borrower's organization complies with [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals](#);
- confirm that no unauthorized change has been made to the organizational structure and organization documents of the Borrower; and
- obtain a new good standing certificate from the jurisdiction where the Borrower is organized.

### **804.02B** Property Management

The Borrower is required to provide a management plan and a list of major repairs completed during the preceding 3 years, and the Lender must confirm that the Property is capably managed.

### **804.02C** Occupancy



The Lender is not required to obtain a copy of the Certificates of Occupancy for the Property. However, the Lender should review the original loan files to identify any issues related to the legal status of the Property's occupancy, and all issues must be clearly outlined in the Lender's Transaction Approval Memo.

#### **804.02D** Property Zoning, Location, and Condition

The Lender must confirm that there has been no change in the zoning affecting the Property. If the Property zoning has not changed since the time the Portfolio Mortgage Loan was initially underwritten, and the Property is a non-conforming use, then a new zoning and non-conforming use analysis is not required for the Property. However, if the Property has been rezoned causing it to become a non-conforming use, or rezoned to further restrict the ability of an existing nonconforming use to rebuild, then the Lender must deliver a non-conforming use analysis. The Lender is not required to obtain an aerial photograph of the Property.

### **Section 805** Appraisals, Inspections and Loan Documentation

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#### **805.01** Appraisal

An Appraisal is required for all In Place Loans.

#### **805.02** Physical Condition Assessment

The Lender is required to obtain a PCA for all In Place Loans. It is particularly important that the Borrower makes all needed repairs and improvements, or funds a Completion/Repair Escrow in a sufficient amount so that the Property is either in good condition at refinancing or shortly thereafter. In addition, the Replacement Reserve must be fully funded in an amount that will ensure that the Property is maintained in good condition for the term of the In Place Loan.

#### **805.03** Environmental Assessment

If no Phase I Environmental Site Assessment was performed for the original Portfolio Mortgage Loan, then a Phase I Environmental Site Assessment is required for the In Place Loan. If a Phase I Environmental Site Assessment (or, if applicable, a Phase II Environmental Site Assessment) was performed for the Portfolio Mortgage Loan, then it need only be updated by the Environmental Professional re-inspecting the Property to determine if:

- an O&M Plan, if any, has been followed or is now required;
- any other Recognized Environmental Conditions or Business Environmental Risks identified in the original Phase I



Environmental Site Assessment, but not the subject of an O&M Plan, have become worse and whether an O&M Plan should be implemented;

- any new Recognized Environmental Condition or Business Environmental Risk is apparent; and
- any nearby land uses subject the Property to any Recognized Environmental Condition or Business Environmental Risk.

#### **805.04** Mortgage Loan Documents

All new Loan Documents are required to document the In Place Loan.

#### **805.05** Title Policy and Survey Requirements

##### **805.05A** Title Policy

A new mortgagee title insurance policy is required for all In Place Loans.

##### **805.05B** Survey

A new survey of the Property is required, unless:

- the new mortgagee title insurance policy for the In Place Loan includes all title exceptions, including those that would appear on the most recent survey provided by the Borrower to the Lender;
- the Borrower certifies that there have been no changes to the Property since the later of (i) the date of the survey referenced in the original title policy for the Portfolio Mortgage Loan, or (ii) the date of most recent survey of the Property; and
- the Lender's inspection of the Property reveals no evidence of new construction on the site or encroachments on the site from adjoining properties.

#### **805.06** Subordinate Debt

If the original Portfolio Mortgage Loan has any existing Subordinate Loans approved by Fannie Mae which will remain after the financing of the In Place Loan, the subordinate lender must reaffirm the subordination using the appropriate Subordination Agreement. The combined DSCR of the Senior Mortgage Loan and all Subordinate Loans must be disclosed for pricing during the underwriting of the In Place Loan.





## **Section 806** Fees and Pricing Premiums

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### **806.01** Origination Fees

For maximum Origination Fees for all Level 2 In Place Loans, and maximum underwriting and processing fees for all Level 3 In Place Loans, see [Part IV A, Chapter 2: Pricing, Origination Fees, and Prepayment Premium Incentives](#).

### **806.02** Pricing Premiums

No pricing premiums are allowed in connection with the financing of In Place Loans.

### **806.03** Loan Modification, Extension and Forbearance Fees

If Fannie Mae agrees (or, for Portfolio Mortgage Loans with loss sharing, Fannie Mae and the Lender jointly agree) to enter into a modification and extension of the Portfolio Mortgage Loan that does not otherwise qualify for refinancing as an In Place Loan in accordance with this Chapter, loan modification fees may be charged in connection with the modification and extension of the Portfolio Mortgage Loan as provided in [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711: Courses of Action](#).



# Glossary

## A

**Appraisal** Written statement independently and impartially prepared by a qualified appraiser stating an opinion as to the market value of the Property as of a specific date, supported by the presentation and analysis of relevant market information.

**Synonyms**

- Appraisals

## B

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

**Synonyms**

- Borrowers
- Borrower's

**Business Environmental Risk** Risk of material environmental or environmentally-driven impact on the business or property associated with a Property or the past, current or planned use of a Property, including all “non-scope considerations” under current ASTM E 1527, asbestos or asbestos-containing materials, radon, lead-based paint, lead in drinking water, wetlands, regulatory compliance, health and safety, indoor air quality, biological agents, mold, etc.

**Synonyms**

- Business Environmental Risks

## C

**Completion/Repair Escrow** Custodial Account established by the Lender and initially funded by an escrow deposit from the Borrower on the Mortgage Loan Origination Date to complete Completion/Repairs or other capital improvements at the Property.



## E

Environmental Site Assessment

Report (either a Phase I ESA or a Phase II ESA) identifying whether a Property is subject to Recognized Environmental Conditions or Business Environmental Risks.

### **Synonyms**

- ESA

## F

Form 4660

Multifamily Underwriting Standards identifying Pre-Review Mortgage Loans and containing the minimum 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

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

Guide

Multifamily Selling and Servicing Guide and Delegated Underwriting and Servicing Guide, including any exhibits, appendices, or other referenced forms, as updated, amended, restated, modified, or supplemented by any lender memo; provided, however, if a topic is covered in the Multifamily Selling and Servicing Guide, that Guide shall control unless a Lender Contract specifically requires use of another Guide.

### **Synonyms**

- DUS Guide



## I

### In Place Loan

Mortgage Loan refinancing a Portfolio Mortgage Loan that does not meet Tier 2 underwriting requirements.

#### **Synonyms**

- In Place Loans

## 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

### Level 2 In Place Loans

Generally, Portfolio Mortgage Loans with an Underwritten DSCR not less than 5 basis points below Tier 2 standards and an LTV not greater than 5% above Tier 2 standards per [Part V, Chapter 8: In Place Loans, Section 802: In Place Loan Categories](#).

#### **Synonyms**

- Level 2 In Place Loan



**Level 3 In Place Loans** Generally, Portfolio Mortgage Loans with an Underwritten DSCR greater than 5 basis points below Tier 2 standards or an LTV greater than 5% above Tier 2 Standards per Part V, Chapter 8: In Place Loans, Section 802: In Place Loan Categories.

**Synonyms**

- Level 3 In Place Loan

**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**

**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

## **P**

**Portfolio Mortgage Loan** Mortgage Loan that was purchased by Fannie Mae and is held as of a certain date regardless of whether it is a Cash Mortgage Loan or an MBS Mortgage Loan.

**Synonyms**

- Portfolio Mortgage Loans



**Prepayment Premium** When a Mortgage Loan prepayment is made, amount required to be paid by the Borrower in addition to the principal amount being prepaid and accrued interest per the related Loan Documents.

**Synonyms**

- Prepayment Premiums

**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

## R

**Replacement Reserve** Custodial Account established by the Lender and funded by deposits from the Borrower over the term of the Mortgage Loan to fund the replacement of capital items at the Property.

**Synonyms**

- Replacement Reserves

## S



Senior Mortgage Loan

Senior loan purchased by Fannie Mae.

**Synonyms**

- Senior Mortgage Loans