



# Multifamily Selling and Servicing Guide

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# Summary of Changes

## HIGHLIGHTS

**Effective March 18, 2021**, Part III, Chapter 7: Multifamily Affordable Housing Properties was updated to expand delegation and clarify requirements, including new form Loan Documents and associated edits to:

- Part I, Chapter 3 – Borrower, Guarantor, Key Principals, and Principals;
- Part II, Chapter 3 – Legal Compliance; and
- Part V, Chapter 4 – Asset Management: Loan Document Administration.

## Primary Changes

### Multifamily Affordable Housing Properties

- Expanded your delegated authority to underwrite:
  - rents on Properties with
    - new HAP contracts, or
    - recently approved HAP contract rents;
  - HAP contract rents up to 10% above market rents for certain Properties;
  - using 3% economic vacancy
    - in Nationwide markets, and
    - for Properties without HAP contracts;
  - using 2.5% Property management fees for certain Properties in
    - Strong Markets, or
    - Eligible MSAs;
  - the Florida Affordable Housing property tax exemption;
  - without a Restabilization Reserve for Tier 4 Mortgage Loans; and
  - using 35-year amortization for Properties with new LIHTCs and loan terms of at least 10 years.
- Clarified information regarding:
  - Special Public Purpose and Sponsor Initiated Affordability;
  - components of Restricted and Unrestricted Values;
  - for LIHTC Properties,
    - when Sponsors elect to use LIHTC Income Averaging,



- requiring a minimum 20% LIHTC equity contribution at closing,
- deferred developer fees, and
- applicable LIHTC rents equals the lower of maximum allowable LIHTC rents and actual rents in place;
- LIHTC equity bridge loan
  - terms and conditions, and
  - requiring it to be paid off with the final LIHTC equity payment;
- restrictive covenants and Affordable Regulatory Agreements apply to both MAH properties and non-MAH properties;
- Conflict Mortgage Loan requirements if you have a LIHTC equity interest in the Property; and
- for FHA Risk Sharing Mortgage Loans,
  - Special Public Purpose properties are ineligible,
  - specific Property locations are ineligible,
  - process change for reserving FHA units, and
  - when a subsidy layering review is required.

### Associated Edits

Clarified:

- Any equity interest you acquire in the Borrower relating solely to obtaining the associated LIHTCs is not considered when determining if the Mortgage Loan is a Conflict Mortgage Loan.
- Any Affordable Regulatory Agreement for a non-MAH Property must be subordinated to the Security Instrument Lien.
- Asset management guidance for LIHTCs and added asset management requirements for an MAH Property with Sponsor-Initiated Affordability.

Added the following new required form Loan Documents for Sponsor-Initiated Affordability on [www.fanniemae.com](http://www.fanniemae.com):

- Payment Guaranty (Pricing Incentive Recapture) (Form 6020.PIR); Modifications to
- Multifamily Loan and Security Agreement (Sponsor-Initiated Affordability Restrictions) (Form 6271); and
- Sponsor-Initiated Affordability Agreement (Form 6290).

### **Questions**

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## Chapter 3 Borrower, Guarantor, Key Principals, and Principals

### Section 301 Generally

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#### Operating Procedures

You must perform an overall risk assessment of the [Borrower](#), [Guarantor](#), [Key Principals](#), and [Principals](#) considering the specifics of the transaction.

#### Guidance

You should:

- Complete a credit review by analyzing information about their
  - organizational structure,
  - multifamily business experience and qualifications,
  - general credit history, and
  - current and prospective financial condition.
- Ensure that the financial strength, experience, qualifications, character, and credit history of the [Borrower](#), [Guarantor](#), [Key Principals](#), and [Principals](#) support the size, complexity, structure, and risk of the transaction.

### Section 302 Borrower Organizational Structure

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#### 302.01 Single-Asset Entity

#### Requirements

You must ensure that

- the [Borrower](#) is a domestic single-asset entity, and
- if the [Borrower](#) is ultimately owned by foreign persons or entities, it has at least 1 domestic tier of ownership.

#### Guidance

As you analyze the [Borrower](#) and its organizational documents to confirm that it is a single-asset entity, consider the following questions:



- Can the **Borrower** acquire any additional real property, personal property, or assets?
- Can the **Borrower** participate in any business other than managing and operating the **Property**?
- Are the **Borrower's** assets or funds commingled with anyone else's? If so, can these assets or funds be separated and identified?
- Are the **Borrower's** financial statements, accounting records, and other organizational documents maintained with anyone else's?
- Except for the **Mortgage Loan**, has the **Borrower** assumed, guaranteed, or obligated itself to cover anyone else's liabilities?

### Requirements

If the **Borrower** owns more than a single asset, the **Borrower** may still qualify as a single asset entity if you:

- Obtain an operating statement for each real property owned.
- Obtain proof that the **Borrower** has no existing debt secured by a **Lien** on any of the **Borrower's** real property, other than a **Mortgage Loan** purchased by Fannie Mae.
- Obtain proof that the **Borrower** does not have any direct or indirect equity interest subject to mezzanine financing.
- Ensure that the **Loan Documents** prohibit the **Borrower** from
  - acquiring any additional debt (except for supplemental debt on existing Fannie Mae loans),
  - increasing any existing debt, or
  - acquiring any additional real property.

### Guidance

As you analyze the **Borrower** that owns more than a single asset, you should consider whether its other real estate assets are only

- multifamily properties, or
- other types of real estate that do not pose an environmental risk to the **Borrower**.

## **302.02** Co-Tenant Borrowers



### Requirements

You must ensure that any **Co-Tenant Borrower** meets these eligibility requirements:

- the **Co-Tenant Borrower** has no more than 10 co-tenants;
- no co-tenant is an individual;
- each co-tenant is a single-asset entity complying with **Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.01: Single-Asset Entity**; and
- each co-tenant has jointly and severally executed the **Loan Documents**.

## **302.02A** Tenancy-in-Common Agreement

### Requirements

You must ensure that a validly executed Tenancy-in-Common Agreement is in place prior to or at the **Mortgage Loan** closing.

You must review the agreement to ensure that:

- Each co-tenant is bound by the terms of the agreement.
- The **Property** has a manager of its day-to-day business and affairs, which can be
  - a single co-tenant (or the **Key Principal** of such co-tenant) known as the “co-tenant representative”, or
  - a validly-appointed property manager.
- Distributions to the co-tenant representative are subordinate to
  - all payments under any **Mortgage Loan** secured by a **Lien** on the **Property**, and
  - the terms and conditions of any such **Mortgage Loan**.

### Guidance

As you analyze the Tenancy-in-Common Agreement, consider the following questions. The term “co-tenant” also includes any **Key Principal** who has the rights of the co-tenant.

#### **Representation**

- Have the **Co-Tenant Borrowers** given the co-tenant representative



the power to deal with the Lender through the Tenancy-in-Common Agreement or an irrevocable power-of-attorney?

- Has each Co-Tenant Borrower waived its right to reside in the Property?

### Buy outs

- Does each Co-Tenant Borrower have buy out rights to any other co-tenant?
- Is each Co-Tenant Borrower financially able to buy out any other co-tenant?

### Communication

- Does each Co-Tenant Borrower have a name, address, telephone number, and percentage of ownership interest listed?
- Has each Co-Tenant Borrower agreed to promptly notify all other Co-Tenant Borrowers and you if their address or telephone number changes?
- Has a single Key Principal of the co-tenant representative agreed to receive any communication from you on behalf of all Co-Tenant Borrowers?

## 302.02B Key Principal Execution of Guaranty

### Requirements

You must ensure that:

- each Co-Tenant Borrower names at least 1 Key Principal; and
- if a Guaranty is required, each Key Principal must become a Guarantor and execute either a Non-Recourse Guaranty or Payment Guaranty.

## Section 303

### Key Principals, Principals, and Guarantors

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### Requirements

For every Mortgage Loan, you must:

- Identify any Guarantor and all Key Principals and Principals of the Borrower.





- Ensure that the **Guarantor**
  - is not a foreign person or a foreign entity, and
  - either has an ownership interest in the **Borrower** or ensure that the **Guarantor** has adequate consideration to enter into the **Guaranty**.

You must identify the **Principals** per the following table.

If the <b>Borrower</b> is a...	Then a <b>Principal</b> is...
General Partnership or Joint Venture	any general partner or joint venturer.
Limited Partnership	all general partners and any limited partner who owns a 25% or more interest in the partnership.
Privately-Held Corporation	a stockholder who owns 25% or more of the voting stock of the corporation.
Limited Liability Company	all non-member managers, member-managers, and any member who owns a 25% or more membership interest.
Trust (other than a Land Trust)	the grantor (if the trust is a revocable trust or if the grantor or settlor has retained powers), any <b>Person</b> who has a 25% or more beneficial interest in the trust, and any trustee.
Land Trust	a trust beneficiary who owns a 25% or more beneficial interest in the land trust.

### 303.01 Entity Review

#### ➔ Guidance

When you review an entity, consider the following questions:

- Is it an existing entity (e.g., a corporation, limited liability company, limited liability partnership, or other acceptable structure) that is not newly formed?
- Is it a well-capitalized, stable, on-going business that would be expected to:
  - Remain financially healthy?
  - Support the **Property**?



- Meet all **Guarantor** requirements and obligations under the **Guaranty**?
- Have assets and net worth that are significantly greater than what would be minimally acceptable for an individual **Key Principal**?

## 303.02 Fund

### ➔ Guidance

When you review a fund, consider the following questions:

- What is the experience and performance history of the fund manager with similar funds?
- Can the fund raise equity from financially substantial investors?
- What is the performance of the fund?
- What is the leverage level of the fund?
- What is the net worth and liquidity of the fund?
- What is the type and quality of
  - the **Property** and market,
  - other existing properties and markets, and
  - any potential additional properties and markets targeted by the fund pursuant to its agreements?

Additionally, you should review the organizational documents and private placement memorandum (if applicable) for the following information:

- the fund's expiration date;
- any extension to the fund's existence and conditions to approve that extension; and
- the process for winding up the business affairs of the fund, including whether the fund is organized in a state that requires the orderly dissolution of investment funds, such as Delaware or Illinois.

## Section 304

### Financial Statements

#### Requirements

You must obtain signed financial statements from all parties relevant to



the Mortgage Loan.

If these statements...	Then...
Are dated less than 12 months before the Commitment Date	You do not need a signed "no <u>material</u> adverse <u>material</u> change" certification.
Are dated 12 – 24 months before the Commitment Date	You must include a signed certification dated within 30 days before loan application that states they have experienced no <u>material</u> adverse <u>material</u> change to their financial condition.
Are dated more than 24 months old	You cannot use them.

For all financial statements, you must collect:

- A schedule of real estate owned by the party providing the financial statement, including the loan information (such as lender, DSCR, and maturity date) for all assets on the schedule.
- A listing of all other assets, including
  - notes receivable from related entities, and
  - an estimate of the market value of each asset and the basis for calculating value estimates.
- All liabilities and contingent liabilities, including
  - debts under lines or letters of credit,
  - personal guaranties,
  - unmet obligations to partnerships or other entities, and
  - other future obligations (describe the amount and timing of these).
- Any other factors that may impact the party's financial position immediately or during the term of the Mortgage Loan (including any known threat of potential lawsuits that may arise from the parties' business operations).

## Section 305

## Multifamily Underwriting Certificate



### Requirements

You must obtain the appropriate [Multifamily Underwriting Certificate \(Form 6460\)](#) from the [Borrower](#) and each [Key Principal](#).

You must ensure that the [Form 6460](#) is

- signed and certified as true, correct, and complete, and
- dated within 90 days before the [Commitment](#) date.

If the 90-day limit is exceeded, the [Borrower](#) and [Key Principals](#) must certify that there has been no material adverse change to the financial condition shown in the [Form 6460](#).

You must keep a copy of the [Form 6460](#) in your [Servicing File](#).

## Section 306 Fraudulent Conveyance

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### Requirements

You must not obtain a [Commitment](#) for any [Mortgage Loan](#) if you believe that the [Borrower](#), [Key Principals](#), [Principals](#), or [Guarantors](#) intend to delay, hinder, or defraud creditors.

### Guidance

To show that you have made the [Mortgage Loan](#) in good faith, consider the following questions:

- Have you carefully reviewed the facts so that you have a clear defense to potential fraudulent conveyance or fraudulent transfer claims?
- Have you obtained a [Form 6460](#) that confirms the [Borrower's](#) good faith?

## Section 307 Applicant Experience Check

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### Requirements

For both initial applications, [Supplemental Mortgage Loans](#), and any [Transfer/Assumption](#), you must perform an [ACheck™](#) and receive a "Continue Processing" response for

- the [Borrower](#),



- each Key Principal of the Borrower,
- each Principal of the Borrower,
- each Guarantor, and
- any person who owns or controls an entity Key Principal.

## Operating Procedures

### **Where can you find ACheck?**

You can find the ACheck application at [www.fanniemae.com/multifamily/acheck](http://www.fanniemae.com/multifamily/acheck).

### **When do you use the ACheck application?**

As soon as you receive an application request and the necessary tax identification numbers and/or social security numbers, enter the information into ACheck.

- If you have not yet identified all parties at this stage, you must enter all Key Principals, Principals, and Guarantors of the Borrower into ACheck as soon as you identify them.
- If more than 90 days pass between the initial ACheck and Commitment Date, you must repeat an ACheck.

### **How do you view ACheck results?**

The ACheck application will provide either a “Continue Processing” or “Do Not Process” electronic response instantaneously.

#### ■ **“Continue Processing” Response**

You must receive a “Continue Processing” response in order to proceed with the application.

This does not mean that the Borrower, Key Principal, Principal, Guarantor, or Principal is approved; you are still required to complete full Mortgage Loan credit underwriting.

#### ■ **“Do Not Process” Response**

If you receive a response stating “do not continue processing an application for a Fannie Mae loan that involves this applicant” (or similar wording), then:

- Do not proceed with the application, and do not omit any Key Principal, Principal, or Guarantor for which a “Do Not Process”



response was given.

- Use the “Do Not Process” response to indicate that you need to have direct communication with Fannie Mae.
- Follow the instructions provided by the [ACheck](#) application and contact Fannie Mae before proceeding to underwrite the [Mortgage Loan](#).
- Never use the “Do Not Process” response as the sole reason for rejecting or denying credit in any cases not involving Fannie Mae.

You will not be provided any information as to why a particular [Borrower](#), [Key Principal](#), [Principal](#), or [Guarantor](#) received a “Do Not Process” response.

### **What about confidentiality?**

You must establish procedures to ensure that all [ACheck](#) responses obtained for [Borrowers](#), [Key Principals](#), [Principals](#), and [Guarantors](#) are kept confidential.

### **How do you maintain ACheck results?**

You must print dated copies of your [ACheck](#) inquiries and responses for the [Mortgage Loan](#) and include these copies in your [Servicing File](#).

## **Section 308**

### **Compliance**

---

#### **Requirements**

You must confirm that the [Borrower](#), [Key Principal](#), [Guarantor](#), and [Principals](#):

- Are not on the U.S. Treasury Department [OFAC](#) list.
- Do not exhibit “red flags” that indicate a high risk of money laundering.
- Are not on the [FHFA SCP List](#).

Fannie Mae will not purchase any [Mortgage Loan](#) with a [Borrower](#), [Key Principal](#), [Principal](#), or [Guarantor](#) that is on either the U.S. Treasury Department [OFAC](#) or [FHFA SCP List](#).

#### **Operating Procedures**

If you find a “red flag” for money laundering:



1. Do not inform the Borrower, any Borrower Affiliate, Key Principal, Principal, or Guarantor.
2. Report all information that triggered the “red flag” to Fannie Mae to:
  - <https://fims.secure.force.com/MortgageFraudSubmission> or (800) 232-6643, and
  - Lender Risk Management.
3. Obtain Fannie Mae’s written approval to Deliver the Mortgage Loan.
4. Do not provide any information to Fannie Mae that would indicate whether you have filed a Suspicious Activity Report (SAR) with the Financial Crimes Enforcement Network (FinCEN).

## Section 309 Execution of Non-Recourse Guaranty

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### Requirements

You must obtain a Non-Recourse Guaranty from a Key Principal (the Guarantor) for any Mortgage Loan that has

- an Underwritten DSCR less than
  - 1.35 for fixed rate or
  - 1.10 for variable rate, or
- an LTV greater than 65%.

You do not need to obtain a Non-Recourse Guaranty if the Borrower is a Cooperative Organization or if the Key Principal (who would otherwise be the Guarantor) is a publicly traded entity.

## Section 310 Conflict Mortgage Loans

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### 310.01 Description

#### Requirements

Conflict Mortgage Loan Type





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



<p>Controlling Conflict Mortgage Loan</p>	<p>Any Conflict Mortgage Loan where:</p> <ul style="list-style-type: none"><li>• the <b>Lender</b><ul style="list-style-type: none"><li>- can (other than through the exercise of a lender's rights and remedies under the <b>Loan Documents</b>) require changes to the management, operations, or decision-making of the <b>Borrower</b>, the <b>Key Principal</b>, any <b>Person</b> holding a <b>Controlling Interest</b> in the <b>Borrower</b> or <b>Key Principal</b>, or any <b>Principal</b> or <b>Guarantor</b>, or<ul style="list-style-type: none"><li>- owns any <b>Preferred Equity</b> in the <b>Borrower</b>;</li></ul></li></ul></li><li>• any <b>Lender Affiliate</b> or employee or group of employees of the <b>Lender</b> or any <b>Lender Affiliate</b><ul style="list-style-type: none"><li>- can require changes to the management, operations, or decision-making of the <b>Borrower</b>, the <b>Key Principal</b>, any <b>Person</b> holding a <b>Controlling Interest</b> in the <b>Borrower</b> or <b>Key Principal</b>, or any <b>Principal</b> or <b>Guarantor</b>,<ul style="list-style-type: none"><li>- individually or together own a 25% direct or indirect equity interest in the <b>Borrower</b> or in any <b>Person</b> holding a <b>Controlling Interest</b> in the <b>Borrower</b> at or after loan origination (including any interest acquired as part of a <b>Transfer/Assumption</b>),<ul style="list-style-type: none"><li>- own any <b>Preferred Equity</b> in the <b>Borrower</b>, or</li><li>- exercises rights under <b>DLA Mezzanine Financing</b> that results in a <b>Controlling Conflict Mortgage Loan</b> under these requirements; or</li></ul></li></ul></li></ul></li><li>• any <b>Lender Senior Executive</b> owns any direct or indirect equity interest in the <b>Borrower</b>.</li></ul>
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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.



## Chapter 3

## Legal Compliance

### Section 301

### Zoning and Legal Non-Conforming Uses

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#### Requirements

For each **Property**, you must:

- Identify the current zoning or land use designation.
- Determine whether the use and **Property** characteristics conform to those designations.

If the **Property's** use and characteristics are a legal non-conforming use under applicable zoning and land use laws and regulations, you must:

- Analyze the impact on the **Mortgage Loan** if the **Borrower** is not allowed to rebuild the **Property** as is under current law.
- Determine whether **Improvements** can be reconstructed to a level that would support a minimum 1.00 amortizing **DSCR** in case of full or partial casualty.

If you order a Zoning Report for the **Property** from a zoning consultant, you must:

- deliver structured data per the Zoning Report Data Supplement (Form 4089); and
- include a report narrative.

#### Guidance

To assess the **Borrower's** ability to rebuild **Improvements** on a non-conforming **Property** to a level that would support a minimum 1.00 amortizing **DSCR**, you should consider:

- the continued marketability and economic viability of the **Property**;
- the percentage of damage that could occur before the **Property** would be forced to comply with current zoning and land use requirements, and how to apply that percentage to the **Property's** market value, assessed value, replacement cost, or unit count;
- for **Properties** with multiple buildings, whether the percentage of damage would need to apply to a single building or the whole complex before being forced to comply with current zoning and land use requirements; and



- the amount and type of insurance coverage maintained by the Borrower and required per Part II, Chapter 5: Property and Liability Insurance, Section 501.02C: Ordinance or Law Insurance, and the insurance loss proceeds payout, compared to increased rebuilding costs from
  - building code changes,
  - Americans with Disabilities Act compliance, and
  - the municipality's local zoning requirements (e.g., green compliance for new buildings, etc.).

## Section 302

### Easements

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#### Requirements

You must evaluate:

- the impact of all easements (public and private), including their effect on the Property's value and marketability; and
- the impact on life safety issues, environmental risks, and acceptability in the market area for certain types of easements, such as for
  - transcontinental pipelines,
  - high power electric transmission lines, or
  - drainage channels.

#### Guidance

Easements for normal utilities are generally acceptable, including those that provide natural gas, water, sewer, electricity, or telephone service to the Property.

Easements that serve other properties will generally be acceptable if they

- do not interfere with Improvements on the Property,
- are limited to residential and reasonable commercial use, and
- are covered by appropriate insurance.

## Section 303

### Liens and Encumbrances

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## 303.01 Generally

### Requirements

You must ensure that the **Property** is free of all **Liens** and rights of others, except for

- **Permitted Encumbrances**, and
- **cable and laundry leases per Part II, Chapter 1: Attributes and Characteristics, Section 108: Commercial Leases.**

You must analyze any restrictions on **Improvements** or the use of the **Property**, in order to

- **determine whether the restrictions are acceptable**, and
- **make recommendations for addressing the restrictions.**

Examples of restrictions that must be analyzed include restrictive covenants and any restrictions that have been offered, or accepted, in order to obtain a zoning approval or building permit.

[If a non-MAH Property has an Affordable Regulatory Agreement, it must be subordinated to the Security Instrument Lien per Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 705: Restrictive Covenants and Affordable Regulatory Agreements.](#)

### Guidance

When determining whether a restriction is acceptable, you should consider whether a restriction could negatively impact the **Property's**

- **value**,
- **use**,
- **security**,
- **marketability**, or
- **ability to generate NCF sufficient to pay debt service.**

### Requirements

You must analyze the impact of any restriction on the conversion of a **Property** to a condominium or similar development.



## → Guidance

A restrictive covenant on condominium conversions will generally not have a negative impact if all of the following apply:

- The conversion restriction is for a period of 10 years or less.
- Any repurchase option or right of reversion in favor of a benefitted party:
  - is unconditionally subordinated to the [Lien of the Security Instrument](#) and to the [Mortgage Loan](#);
  - includes an unconditional “standstill” provision prohibiting the exercise of such option or right while the [Mortgage Loan](#) is outstanding; and
  - automatically ends if a [Foreclosure Event](#) occurs.
- The covenant provides that no mortgagee, trustee, or beneficiary under any mortgage or deed of trust will be liable for any act, omission, or indemnification obligation of the [Borrower](#) or any prior or subsequent owner of the [Property](#).
- The covenant does not require any mortgagee, trustee, or beneficiary under a mortgage or deed of trust to execute an assumption or similar agreement if a [Foreclosure Event](#) occurs.

### 303.02 Property Previously Secured Bond Financing

#### Requirements

If the Property...	You must...
Previously secured taxable or tax-exempt bonds	<ul style="list-style-type: none"> <li>• determine if the <a href="#">Property</a> is subject to any requirements, restrictions or other features that survived repayment, and</li> <li>• analyze whether the surviving features will have a material adverse impact on you, Fannie Mae, or the <a href="#">Mortgage Loan</a>.</li> </ul>
Currently secures taxable or tax-exempt bonds that are being retired with proceeds of the <a href="#">Mortgage Loan</a>	<ul style="list-style-type: none"> <li>• review the bond documents, and</li> <li>• analyze the impact of any surviving features of the financing.</li> </ul>



### → Guidance

A [Property](#) that secures, or has secured, bonds may be subject to certain requirements, restrictions, or other features that survive repayment of the bonds such as:

- rent, income, transfer, or other restrictions;
- master lease requirements that support such restrictions; and
- indemnification or other requirements that could
  - burden a future owner,
  - depress the value or marketability of the [Property](#), or
  - prevent or inhibit foreclosure of a lien securing new financing.

### ✦ Operating Procedures

For any bonds being retired with the proceeds of a [Mortgage Loan](#), you must prepare a written summary of the bond documents that:

- explains why any surviving features of the financing will not have a materially adverse effect on the [Mortgage Loan](#), the [Property](#), you, or Fannie Mae;
- gives an overview of the redemption process for retiring the bonds; and
- is uploaded into [DUS Gateway](#) prior to [Commitment](#).

## Section 304

### Title Insurance

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#### ☑ Requirements

You must ensure that every [Mortgage Loan](#) is covered by an [ALTA](#) title policy or comparable title policy approved for use in the applicable jurisdiction.

The title policy must:

- be issued by a title company that is authorized to issue title policies where the [Property](#) is located;
- be in the original amount of the [Mortgage Loan](#), including all advances held in escrow or reserves;
- be no less than the amount of the [Mortgage Loan](#) allocated to each [Property](#), if the [Mortgage Loan](#) is secured by multiple properties;



- insure for the benefit of Fannie Mae;
- insure the first priority Lien of the Mortgage Loan, subject only to the Permitted Encumbrances, unless it is a Supplemental Mortgage Loan;
- be in full force and effect with
  - all premiums paid,
  - no claims made by you or another lender, and
  - no claims paid;
- insure that
  - the legal description of the insured property is identical to the legal description of the property shown on and required survey, and
  - if the Property consists of multiple parcels, they are contiguous;
- contain:
  - a Comprehensive Endorsement (ALTA Form 9 or equivalent);
  - an Environmental Protection Lien Endorsement (ALTA Form 8 or equivalent) that only takes exception for a statute that could give an environmental protection Lien priority over the Mortgage Loan;
  - a Mortgage Tax Endorsement (ALTA Form 38.06 or equivalent) if the Mortgage Loan is secured by an amended and restated Security Instrument, such as a New York Consolidation, Extension, and Modification Agreement (Form 6025.NY.CEMA), or a Florida Consolidated, Amended, and Restated Mortgage (Form 6025.FL.AR); and
  - appropriate Endorsements such as:
    - Condominium;
    - PUD;
    - Variable Rate;
    - Leasehold Mortgage;
    - Location;
    - Unlocated Easements; and/or
    - Contiguity-Multiple Parcel;
- delete the standard survey exception;
- include a note on Schedule B, Part II listing you as the secured party and Fannie Mae as the assignee, for any financing statement filed in



the recording office;

- not list any financing statement as an exception on Schedule B, Part I; and
- insure that any taxes, assessments, or other lienable items are not yet due and payable.

### 304.01 Title Insurance Company

#### Guidance

The title company should have a satisfactory rating and adequate reserves.

### 304.02 Policy Form

#### Guidance

If the policy form meets all requirements of this Section, Fannie Mae will accept the standard 2006 or the 1992 [ALTA](#) forms of title insurance policies.

In those states where [ALTA](#) forms of coverage are not approved by the state insurance board or commission, you should get the closest equivalent alternative coverage.

### 304.03 Electronic Policies

#### Guidance

You may use electronically issued title policies if the coverage is enforceable against the insurer.

### 304.04 Insured

#### Guidance

The title policy should

- name you as the insured, and
- insure Fannie Mae when the [Mortgage Loan](#) is delivered (either by reference to your “successors and assigns, as their interests may appear” or by direct reference to Fannie Mae).



### 304.05 Effective Date

#### ➔ Guidance

The effective date of the title policy should not be earlier than when the:

- Security Instrument is recorded, if a 1992 ALTA policy form is issued; or
- Mortgage Loan was funded, if a 2006 ALTA policy form is issued.

### 304.06 Survey Exception

#### ➔ Guidance

If the title policy includes exceptions to matters shown on a recorded map or plat, the exceptions should be specifically described.

### 304.07 Exception for Taxes, Assessments, or Other Lienable Items

#### ➔ Guidance

If any taxes could become delinquent within 60 days after closing, you should require payment at closing.

### 304.08 Financing Statements

#### ➔ Guidance

Any financing statement not filed in the recording office (such as a Uniform Commercial Code filing) may be shown as an informational note on Schedule B, Part II.

### 304.09 Endorsements

#### 304.09A Generally

#### ➔ Guidance

You should get an appropriate ALTA form of endorsement that is incorporated into the “base” title policy. In jurisdictions where an ALTA form is not available, you may include in Schedule B an equivalent form of endorsement or affirmative coverage.



### 304.09B Environmental Protection Lien Endorsement

#### → Guidance

Super Lien statutes that may be included in the ALTA Form 8.1 endorsement are listed in the Acceptable Super Lien Statutes (Form 6506).

### 304.09C Comprehensive Endorsement

#### → Guidance

You should consider whether an adverse circumstance affecting the Property would be an acceptable exception on Schedule B, Part I. Examples include:

- encroachments onto the Property,
- easements or rights of way over the Property,
- encroachments by the Improvements onto adjoining land, and
- violations of existing covenants, conditions, and restrictions.

### 304.10 Document Retention

#### → Guidance

You should keep copies of any restrictions shown as exceptions in the title policy (such as easements and encumbrances) in your Servicing File.

## Section 305 Survey

### 305.01 Decision to Obtain a Survey

#### ☑ Requirements

You must decide whether to get an as-built survey and comply with:

- Part II, Chapter 3: Legal Compliance, Section 305.02: Survey, if you require a survey; or
- Part II, Chapter 3: Legal Compliance, Section 305.03: Decision Not to Obtain a Survey, if you do not require a survey.



## 305.02 Survey

### Requirements

If you require an as-built survey, it must:

- meet the requirements of an [ALTA/NSPS Land Title Survey](#) (made per the 2021 Minimum Standard Detail Requirements), including the required certification; and
- allow the title company to delete the standard survey exception from the title policy.

### Guidance

An acceptable as-built survey:

- should include these items from Table A to all the [ALTA/NSPS Minimum Standard Detail Requirements](#): 1, 2, 3, 4, 6(a) and (b), 7(a), 8, 9, 10, 13, 16, and 18;
- may omit the following from Table A:
  - item 1 for a [Property](#) with a lot and block legal description; and/or
  - item 10, if there are no party walls; and
- should be dated within 360 days before recording the [Security Instrument](#).

### Requirements

If an existing survey dated more than 360 days before the effective date of the title insurance policy is used, it must satisfy all Title Insurance Company requirements for the deletion of the standard survey exception.

### Guidance

The Title Insurance Company may require a “no new improvements” affidavit from the [Borrower](#) certifying that no changes have been made to the [Property](#) since the date of the survey. An existing survey dated within 360 days before the effective date of the title insurance policy, but not prepared in connection with the origination of the [Mortgage Loan](#), may be recertified to you, the Title Insurance Company, and Fannie Mae for the [Mortgage Loan](#).





You should consider whether an adverse circumstance found by a survey would be acceptable. Examples include:

- encroachments over boundary lines, setback lines, or easements; and
- the absence of necessary appurtenant easements, such as a storm or sanitary sewer easement.

### 305.03 Decision Not to Obtain a Survey

#### Requirements

If you do not require an as-built survey:

- either you or the appraiser must conduct a visual inspection of the [Property](#);
- any visible site condition (such as an easement, right-of-way, or encroachment) must be disclosed and insured under the title policy; and
- the title company must delete the standard survey exception from the title policy.

### 305.04 Location of Improvements

#### Requirements

Whether or not you decide to get an as-built survey, [Part II, Chapter 5: Property and Liability Insurance, Section 501.03: Catastrophic Risk Insurance](#) requires you to determine if any [Improvements](#) are located in an [SFHA Zone A or Zone V](#).

## Section 306 Security Interests in Personal Property

### 306.01 Uniform Commercial Code (UCC) Financing Statements

#### Requirements

You must:

- Ensure that the [Security Instrument](#) creates a [Lien](#) on all [Personal Property](#).
- Ensure that the [Lien](#) is a perfected first priority [Lien](#).



- Assign each UCC security interest to Fannie Mae.

## 306.02 Creating and Perfecting the Security Interest

### ➔ Guidance

Article 9 of the UCC covers the perfection of a security interest in Personal Property.

The following table describes how to create and perfect a security interest.

To...	Do the following...
Establish whether the Borrower or a third party owns the Personal Property	Confirm that the Borrower has provided a representation of ownership in the Underwriting Certificate (Borrower) (Form 6460).
Verify that no other party has a Lien on the Personal Property	Conduct searches for UCC financing statements, tax Liens, and judgments on all relevant parties to the transaction.
Obtain a perfected first security interest in the Personal Property	<ul style="list-style-type: none"><li>• Obtain a security agreement from each third party that owns Personal Property.</li><li>• Verify that the Security Instrument and each third party security agreement contains a granting clause creating a security interest in all Personal Property.</li><li>• File a UCC-1 financing statement in the appropriate filing and recording office(s), with a description that matches the security interest granted in the Security Instrument.</li></ul>
Assign the security interest from you to Fannie Mae	File an appropriate assignment (e.g., UCC-1Ad; UCC-3) in the same office(s) where the UCC-1 is filed or recorded.



## Chapter 7 Multifamily Affordable Housing Properties

### Section 701 Generally

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#### 701.01 Description

##### Requirements

An MAH Property is a Property that is encumbered by a regulatory agreement, land use restriction agreement, extended use agreement, or similar restriction (an Affordable Regulatory Agreement) that

- limits rents that can be charged to tenants, or
- imposes income limits on tenants.

An Affordable Preservation Transaction is any transaction involving an MAH Property that:

- currently has rent or income restrictions meeting the eligibility criteria of an MAH Property, but the Property is potentially at risk of being lost from the affordable housing inventory through conversion to market-rate housing;
- is not receiving new LIHTC/ LIHTCs; and
- is being acquired or refinanced, but excludes a Mortgage Loan paying off the initial construction loan.

#### 701.02 Eligible Lenders

##### Requirements

You must be approved in writing to Deliver MAH Mortgage Loans.

### Section 702 MAH Property Eligibility

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#### 702.01 Eligible Characteristics and Underwriting

##### Requirements

You must ensure that an MAH Property has rent or income restrictions that meet or exceed 1 of the following:

- **20% @ 50%:** at least 20% of all units have rent or income restrictions



in place making them affordable to households earning no more than 50% of AMI as adjusted for family size.

- **40% @ 60%:** at least 40% of all units have rent or income restrictions in place making them affordable to households earning no more than 60% of AMI as adjusted for family size (except for New York City, where at least 25% of all units have rent or income restrictions in place, making them affordable to households earning no more than 60% of AMI as adjusted for family size).
- **Section 8 HAP contract:** at least 20% of all units are subject to a project-based HAP contract.
- **Special Public Purpose:** the Property
  - is subject to an Affordable Regulatory Agreement imposed by a government entity, containing other rent and/or income restrictions,
  - has rent or income restrictions that meet or exceed **20% @ 80%:** at least 20% of all units have rent or income restrictions in place making them affordable to households earning no more than 80% of AMI as adjusted for family size, and
  - has rent not exceeding 30% of the adjusted AMI, and
  - meets a noteworthy special public purpose.
- **Self-Imposed Restrictions:** ~~Even though a government entity generally imposes rent or income restrictions, the Borrower may voluntarily self-impose such restrictions to preserve multifamily affordable housing. These restrictions must:~~
  - ~~be placed on record against the Property;~~
  - ~~remain in place beyond the Mortgage Loan Maturity Date; and~~
  - ~~be monitored by you or a government entity annually to ensure the Property's compliance.~~
- **Sponsor-Initiated Affordability:** the Borrower may voluntarily self-impose rent and income restrictions to preserve or create multifamily affordable housing. These restrictions must:
  - require the Property to have
    - rent and income restrictions that meet or exceed 20% @ 80%:  
at least 20% of all units have rent and income restrictions in place making them affordable to households earning no more than 80% of AMI as adjusted for family size, and
    - restricted unit rent limits not exceeding 30% of the adjusted AMI;
  - be placed on record against the Property by executing the Sponsor-Initiated Affordability Agreement (Form 6490);



- be in place at the Property by the Mortgage Loan Origination Date;
- require the Property to comply with the Sponsor-Initiated Affordability Agreement (Form 6490) within 12 months after the Mortgage Loan Origination Date;
- remain in place during the Mortgage Loan term; and
- be certified annually by the Borrower and monitored by an Administering Agent for compliance with the Sponsor-Initiated Affordability Agreement (Form 6490).

### ➔ Guidance

An MAH Property may also:

- be subject to FHA Risk Sharing;
- be financed using tax-exempt Bonds;
- receive LIHTCLHTCs under Section 42 of the Internal Revenue Code, and its related U.S. Treasury regulations;
- be subject to inclusionary zoning (e.g., targeting certain income levels or employees of certain firms or institutions, etc.) or resale restrictions; or
- receive other state, local or federal subsidies which are conditioned on the affordability of some or all of the units in the Property, including Rural Housing Service (RHS) Section 515 Loans, and Loans insured under Section 202 or Section 236 of the National Housing Act.

### ☑ Requirements

You must:

- Reflect the impact of the rent or income restrictions in your underwriting.
- Maintain a copy of the applicable Affordable Regulatory Agreement or Property restrictions in your Servicing File.

### 🌿 Operating Procedures

For any Property with Sponsor-Initiated Affordability, the Borrower must execute the:



- [Sponsor-Initiated Affordability Agreement \(Form 6490\)](#);
- [Modifications to Multifamily Loan and Security Agreement \(Sponsor-Initiated Affordability Restrictions\) \(Form 6271\)](#); and
- [Payment Guaranty \(Pricing Incentive Recapture\) \(Form 6020.PIR\)](#).

[To commit and Deliver a Mortgage Loan that qualifies as Special Public Purpose or Sponsor-Initiated Affordability, refer to:](#)

- [Multifamily Affordable Housing Property Definition - Special Public Purpose FAQs](#); and
- [Sponsor-Initiated Affordability FAQs](#).

## 702.02 Ineligible Characteristics and Underwriting

### Requirements

You must not underwrite or price the [Property](#) as an [MAH Property](#) if it:

- has less than 3 years of rent or income restrictions remaining on the [Affordable Regulatory Agreement](#); and
- is expected to transition to market rents during the term of the [Mortgage Loan](#); or
- [has 3 or more years of LIHTC restrictions remaining, but the Borrower intends to enter into the Qualified Contract Process \(per Section 42 of the Internal Revenue Code\) within 3 years after the Mortgage Loan Origination Date.](#)

## Section 703 Property Income and Underwriting

### 703.01 Underwritten NCF

### Requirements

You must use the following table to calculate [Underwritten NCF](#).

REQUIRED UNDERWRITTEN NCF (MULTIFAMILY AFFORDABLE PROPERTY)		
Item	Function	Description
CALCULATION OF NET RENTAL INCOME		



1		<p>GROSS RENTAL INCOME – the least of:</p> <ul style="list-style-type: none"> <li>• rents permitted under any federal, state, or local subsidy program applicable to the <a href="#">Property</a>, as adjusted for AMI, family size, and number of bedrooms in a unit, and reductions for the applicable utility allowances<sup>1</sup>;</li> <li>• rents permitted under any restrictive covenants, subordinate financing requirements, or an <a href="#">Affordable Regulatory Agreement</a> recorded on the <a href="#">Property</a>; or</li> <li>• actual rents in place for occupied units, plus the lesser of <ul style="list-style-type: none"> <li>- market rents, or</li> <li>- permitted rents, described above for vacant units based on a current rent roll (multiplied by 12).<sup>2</sup></li> </ul> </li> </ul> <p><u>Rent from non-project based Housing Choice Vouchers must not exceed the average rent for comparable units without non-project based Housing Choice Vouchers.</u></p> <p>You must include incremental HAP contract income <u>as described in</u> <a href="#">per Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 707.01: Properties with Both HAP Contracts and LIHTC Units.</a></p>
2	PLUS	To the extent deducted as an operating expense, rents for other non-revenue units (e.g., model units deducted in the “model apartment” operating expense in the “general and administrative” category, or actual rent from employee units deducted in the “employee” operating expense in the “payroll and benefits” category).
	EQUALS	GROSS POTENTIAL RENT (GPR) <sup>1</sup>
3	MINUS	Physical vacancy – applicable actual rents for vacant units and MAH unit type (e.g., 20% @ 50%, 40% @ 60%, or HAP contract) based on a current rent roll (multiplied by 12). <sup>43</sup>
4	MINUS	Concessions – the aggregate amount of forgone residential rental income resulting from incentives granted to tenants for signing leases, such as free rent for 1 or more months, move-in allowance, etc.). <sup>43</sup>
5	MINUS	Bad debt – the aggregate amount of unpaid rental income determined to be uncollectable: include any adjustments to other income for bad debt. <sup>43</sup>
	EQUALS	NET RENTAL INCOME (NRI) <sup>2,3,4</sup>



- 1 For Properties with HAP contracts, you
- may use newly approved rents if they are effective by the first day of the month after the Mortgage Loan Origination Date, even if the rents exceed trailing GPR, but
  - may not use rents based on
    - an agreement to enter into a HAP contract (AHAP),
    - commitment to enter into a Housing Assistance Payment contract (CHAP), or
    - a "comfort Letter".
- 2 You may underwrite HAP contract rents up to:
- 5% above market rents if the MAH Property is located in an Eligible MSA; or
  - 10% above market rents if the MAH Property is located in a Strong Market, provided the Property's
    - HAP contract expires after the Maturity Date, and
    - current and average 3-year physical occupancy is greater than or equal to 95%.
- 3 1 The total of Items 3, 4, and 5 must equal the greater of
- the difference between the trailing 3-month net rental collections (annualized) and GPR, or the GPR including any permitted HAP contract rent increases multiplied by the percentage difference between
    - the trailing 3-month net rental collections (annualized), and
    - trailing GPR excluding any HAP contract rent increases not in effect before the Mortgage Loan Origination Date; or
  - either
    - 5% of GPR, including any permitted HAP contract rent increases, or
    - 3% of GPR, including any permitted HAP contract rent increases, if:
      - the Property is located in a Strong or Nationwide Market per Form 4660;
      - for a Property without a HAP contract, the actual rents for restricted units are at least 10% below comparable market rents; and
      - the Property has a HAP contract that will expire after the Maturity Date; and
      - the economic vacancy (i.e., the total of Items 3, 4, and 5) is supported by current and 3 years of historical economic vacancy data.
- 2 4 You must assess whether there was any decline in the NRI, including any declines, and make adjustments per Part II, Chapter 2: Valuation and Income, Section 202: Income Analysis.

#### CALCULATION OF OTHER INCOME<sup>1</sup>

6	PLUS	<p>Actual other income (except premiums and corporate premiums) generated through ongoing operations. The income must:</p> <ul style="list-style-type: none"> <li>• be stable;</li> <li>• be common in the market;</li> <li>• exclude one-time extraordinary non-recurring items; and</li> <li>• be supported by prior years.</li> </ul> <p>You must assess the individual month other income within the prior full-year operating statement or, at a minimum, an operating statement covering at least the trailing 6 months (annualized).</p> <p>If there are fluctuations, you may use other income that exceeds the trailing 3-month other income (annualized), as long as it does not exceed the highest 1-month other income used in the trailing 3-month other income calculation.</p>
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3 5 If premiums or corporate premiums are applicable for a particular MAH Property, inclusion of premium income is permitted consistent with Part II, Chapter 2: Valuation and Income, Section 202: Income Analysis.

#### CALCULATION OF COMMERCIAL INCOME





7	PLUS	Actual income from occupied commercial space (and parking revenue for commercial spaces, if applicable).
8	MINUS	10% of the actual commercial income. <sup>46</sup>
<p><sup>46</sup> If net commercial income is greater than 20% of EGI, then reduce to 20% of EGI.</p>		
9	PLUS	Laundry and vending, parking, and all other income per Part II, Chapter 2: Valuation and Income, Section 202: Income Analysis.
	EQUALS	EFFECTIVE GROSS INCOME (EGI)
<b>CALCULATION OF OPERATING EXPENSES</b>		
10	MINUS	<p>Line-by-line stabilized operating expenses. Stabilized operating expenses are the expenses during normal ongoing <b>Property</b> operations, not affected by lease-ups, rehabilitation, or other short-term positive or negative factors. Non-recurring, extraordinary operating expenses must not be included.</p> <p>You must assess:</p> <ul style="list-style-type: none"> <li>• the past operating history;</li> <li>• the appraiser's expense analysis;</li> <li>• all information available to you (including <b>Property</b> contracts, utility bills, real estate tax assessments, insurance policies, and comparable assets); and</li> <li>• the <b>Borrower's</b> budget (in the case of an acquisition).</li> </ul> <p>You must analyze historical operations at the <b>Property</b> and apply an appropriate increase over the prior year's operations in determining an estimate.</p>
11	MINUS	<p><b>Property</b> management fee equal to the greatest of:</p> <ul style="list-style-type: none"> <li>• 4% of EGI<sup>67</sup>;</li> <li>• actual property management fee (exclude any portion of a non-arm's-length property management fee that is subordinated to the <b>Mortgage Loan</b>); or</li> <li>• market property management fee.</li> </ul>



57 Minimum management fee may be 3.5% of EGI (rather than 4% of EGI) ~~provided that~~ if the:

- underwritten management fee is at least \$300 per unit;
- actual management fee is equal to or less than the underwritten management fee; and
- market management fees support the underwritten management fee for similarly sized MAH properties.

If the MAH Property is located in a Strong Market or Eligible MSA and the Mortgage Loan's original UPB is greater than \$6 million, the minimum management fee may be the greatest of

- 2.5%.
- \$300 per unit.
- the actual management fee, or
- market management fees for similarly sized MAH properties.

12	MINUS	<p>Real estate taxes based on the greatest of:</p> <ul style="list-style-type: none"> <li>• actual future tax bill(s) covering a full calendar year;</li> <li>• prior full year's taxes multiplied by 103% (the 3% trending is not required for trailing 12-month or year-to-date annualized expenses); or</li> <li>• in California, the greater of the Mortgage Loan amount or the assessed value, multiplied by the millage rate, plus any special assessments.</li> </ul> <p>You must consider any automatic reassessment upon acquisition in the next 12-month period.</p>
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12 continued	MINUS	<p>If the <b>Property</b> has real estate tax abatements, exemptions, <del>or</del> deferrals, <u>or payments in lieu of taxes (PILOTs), you may use a reduced real estate tax payment if they <del>must</del> will:</u></p> <ul style="list-style-type: none"><li>• be in effect at closing (or at conversion in the case of a <b>Forward Commitment</b>), per written documentation from the state or local tax assessor;</li><li>• survive a foreclosure on the <b>Mortgage Loan</b> such that Fannie Mae or a subsequent owner will retain the abatement, exemption, or deferral benefit as long as the rent, income, or other restrictions are maintained (i.e., it is tied to the <b>Property</b> and not the owner); and</li><li>• if governed under the California Welfare Tax Exemption Program, meet the following:<ul style="list-style-type: none"><li>- if a refinance, the <b>Borrower</b> must be in and remain in compliance with the California Welfare Tax Exemption program; or</li><li>- if an acquisition or a <b>Transfer/Assumption</b> where the <b>Affiliate with Control</b> of the <b>Borrower</b> (which is typically a non-profit entity), or the non-profit entity itself, is changing you must:<ul style="list-style-type: none"><li>▪ escrow at least 6 months of full real estate taxes at closing which will be released after confirming that the California Welfare Tax Abatement is approved and in place at the <b>Property</b>;</li><li>▪ ensure that the <b>Borrower</b> has demonstrated experience with the California Welfare Tax Abatement Program; and</li><li>▪ ensure that the <b>Borrower</b> is and remains eligible for the California Welfare Tax Abatement Program.</li></ul></li></ul></li></ul>
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<p>12 continued</p>	<p>MINUS</p>	<p><u>If governed under the Florida affordable housing property exemption (per Section 196.1978(1) of the Florida Statutes),</u></p> <ul style="list-style-type: none"> <li>• <u>for a refinance, the Borrower must initially be in compliance, and remain in compliance, with the Florida affordable housing property exemption;</u> or</li> <li>• <u>for an acquisition or a Transfer/Assumption, you must:</u> <ul style="list-style-type: none"> <li>- <u>confirm the Borrower applies to the county taxing authority within 60 days after the Mortgage Loan Origination Date;</u></li> <li>- <u>escrow full taxes until you confirm the Florida affordable housing property exemption is approved and in place at the Property; and</u></li> <li>- <u>after confirmation, refund the escrowed taxes to the Borrower.</u></li> </ul> </li> </ul> <p>If the <b>Property</b> benefits from real estate tax abatements, exemptions, or deferrals that will not survive a <b>Foreclosure Event</b>, then you may use a reduced real estate tax payment only if:</p> <ul style="list-style-type: none"> <li>• upon reapplying for the original underwritten tax abatement or an alternative tax abatement, Fannie Mae or a subsequent <b>Property</b> owner would qualify for the tax abatement;</li> <li>• the rent or income restrictions at the <b>Property</b> are maintained; and</li> <li>• you have ensured that: <ul style="list-style-type: none"> <li>- if a qualified non-profit entity is required to participate in the ownership structure of the <b>MAH Property</b> in order to qualify for the tax abatement, exemption, or deferral, a sufficient number of qualified non-profits currently operate in the market (at least 3 for an <b>MSA</b> with a population of less than 1 million and at least 5 for an <b>MSA</b> with a population of 1 million or greater), and in the event of a foreclosure, could serve in the replacement ownership structure to qualify for the tax abatement, exemption, or deferral; and</li> <li>- the original or alternative tax abatement, exemption, or deferral has <ul style="list-style-type: none"> <li>▪ been established in the state's statutes,</li> <li>▪ been in effect for at least 10 years, and</li> <li>▪ the <b>Lender</b> conducted all appropriate due diligence and confirmed that there is no material risk that the tax abatement, exemption, or deferral legislation will be repealed or revised in a manner that would affect the <b>Property's</b> ability to continue to qualify for the tax abatement, exemption, or deferral.</li> </ul> </li> </ul> </li> </ul>
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12 continued	MINUS	<p>If the timeframe for the real estate tax abatement, exemption, or deferral is shorter than the <a href="#">Mortgage Loan</a> term, you must consider</p> <ul style="list-style-type: none"> <li>• a <a href="#">Bifurcated Mortgage Loan</a> structure (i.e., 2 notes secured by a single first <a href="#">Lien Security Instrument</a>),</li> <li>• an amortization schedule that accommodates the elimination of the abatement, or</li> <li>• providing clear justification and support in the refinance analysis.</li> </ul> <p><a href="#">For a Property with a tax abatement, the Modifications to Multifamily Loan and Security Agreement (Tax Abatement or Exemption) (Form 6251) must be executed even if you do not underwrite the tax abatement.</a></p>
13	MINUS	<p>Insurance equal to:</p> <ul style="list-style-type: none"> <li>• the quoted expense, for insurance policies with a bona fide written quote from a reputable broker for a new 12-month policy; or</li> <li>• 110% of the current expense, for insurance policies with a remaining term of less than 6 months.</li> </ul>
14	MINUS	<p>Utilities, water and sewer, repairs and maintenance, payroll and benefits, advertising and marketing, professional fees, general and administrative, ground rent, and all other expenses per <a href="#">Part II, Chapter 2: Valuation and Income, Section 202: Income Analysis</a>.</p>
	EQUALS	UNDERWRITTEN NET OPERATING INCOME (UNDERWRITTEN NOI)
15	MINUS	<p><a href="#">Replacement Reserve</a> expense per <a href="#">Part II, Chapter 2: Valuation and Income, Section 202.01: Underwritten Net Cash Flow (Underwritten NCF)</a>.</p>
	EQUALS	UNDERWRITTEN NCF

## 703.02 Underwriting

### 703.02A Not-for-Profit (IRC §501[c][3]) Borrower may be a Multi-Asset Borrower

#### Requirements

Although a single-asset entity is preferred, a not-for-profit [Borrower](#) may be a multi-asset entity.

If the not-for-profit [Borrower](#) is a multi-asset [Borrower](#), you must analyze the [Borrower's](#) other assets and general financial condition



per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302: Borrower Organizational Structure.

## 703.02B Appraised Value and Underwriting Value

### Requirements

In addition to the Appraisal requirements in Part II, Chapter 2: Valuation and Income, Section 201.02: Appraisal, you must:

- Include 2 separate opinions of the Appraised Value based on:
  - Restricted Value from the Affordable Regulatory Agreement, using
    - comparable multifamily rental properties,
    - the Property's submarket, ~~and~~
    - properties with similar rent or income restrictions, ~~and~~
    - any tax abatements or exemptions.
  - Unrestricted Value from the Property's income and expenses without the Affordable Regulatory Agreement (e.g., market rents, occupancy, and operating expenses), using
    - comparable multifamily market rate rental properties, ~~and~~
    - the Property's submarket, ~~and~~
    - full taxes if rental income restrictions are required by a tax abatement or exemption.
- Ensure that each Appraised Value is based on a market cap rate without any upward or downward adjustment for:
  - special financing (other than adjusted cap rates for Credit Enhancement Mortgage Loans); or
  - tax credit benefits; ~~or~~
  - ~~any perceived special risks or benefits associated with the Property and its Affordable Regulatory Agreement.~~
- Determine the appropriate Appraised Value for the Underwriting Value per Part II, Chapter 2: Valuation and Income, Section 201: Market and Valuation.

## 703.02C Market Study



### Requirements

If the **Property** is subject to a **HAP** contract that will expire before the **Mortgage Loan Maturity Date**, you must include a market study (which can be part of the **Appraisal**) that:

- is prepared by a qualified real estate professional; and
- identifies the absorption rate, lease-up period, and rent level for comparable market rate rental properties in the submarket.

**703.02D** ~~Restabilization Reserve~~ (Deleted entire Section - See bottom of this document)

**703.02DE** Affordable Regulatory Agreement Restrictions

### Guidance

To underwrite the **Mortgage Loan** as an **MAH Property**, the **Affordable Regulatory Agreement** restrictions should remain in effect for the term of the **Mortgage Loan**.

### Requirements

When the **Affordable Regulatory Agreement** restrictions have 3 or more years remaining but will expire before the **Mortgage Loan Maturity Date**, you must provide support to underwrite to the **MAH Preservation** standards in the **Form 4660**, taking into account factors such as:

- restricted rents below market rate rents;
- the **Property's** history of operating as an **MAH Property**;
- the **Borrower's** history and experience owning and operating **MAH Properties**;
- the **Borrower's** intention to renew the **Affordable Regulatory Agreement**;
- the amount of time between the **Maturity Date** and when the **Affordable Regulatory Agreement** restrictions expire;
- market strength; and
- how the **Property** compares to comparable market rate properties in terms of occupancy, condition, and amenities if the **Borrower** intends to convert the **Property** to market rate rents and if no rent advantage exists.

See Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702.01: Eligible Characteristics and Underwriting regarding self-



imposed restrictions.

### **703.02E** 35-Year Amortization

#### Requirements

If you use a 35-year amortization term, the:

- Property must have LIHTCs with at least 8 years remaining in the initial 15-year compliance period; and
- minimum MAH Mortgage Loan term must equal the greater of
  - the remaining initial compliance period, or
  - 10 years.

### **703.02F** LIHTC Income Averaging

#### Guidance

When a Sponsor elects LIHTC Income Averaging for a Property with new LIHTCs, you should consider:

- Will LIHTC Income Averaging impact other non-LIHTC regulatory agreements?
- Is LIHTC Income Averaging compatible with other funding and subsidy source requirements, including any project-based HAP contract?
- Has LIHTC Income Averaging been approved by the
  - state agency, and
  - LIHTC investor or syndicator?
- Will the on-site Property management staff have sufficient experience?
- Will the unit mix be impacted, including
  - unit parity,
  - multi-building election,
  - floating units, and
  - market rate units?
- What is the rent advantage, especially for units above 60% of AMI?





- For a Forward Commitment,
  - is the Property not a resyndication of a property previously developed or preserved using LIHTCs and subject to an existing extended use agreement, or
  - if the Property is a resyndication, have you confirmed the property has completed its extended use period?
- Does the market study include capture rates for each unit designation supporting LIHTC Income Averaging?

Requirements


You must identify and mitigate any risks from electing LIHTC Income Averaging.

**703.02G** Initial LIHTC Equity

Requirements

For any MAH Property with new LIHTCs, you must ensure at least 20% of the aggregate LIHTC equity that the LIHTC investor or syndicator must contribute into the limited partnership is received on or before the Mortgage Loan Origination Date.

**703.02H** Developer Fees

 Guidance

You should analyze the development budget, including the

- developer fee due the Sponsor or any Affiliate, and
- any deferred developer fee (i.e., the portion of the developer fee shown as a source in the sources and uses statement).

If the deferred developer fee is greater than 50% of the total developer fee, you should confirm there are sufficient

- hard and soft contingency budgets, and
- projected surplus cash flows to repay the deferred developer fee within the initial compliance period.



## **703.02I** Rent-Stabilized Units

### Guidance

Refer to Part II, Chapter 2: Valuation and Income, Section 205: Rent-Stabilized Properties regarding rent-stabilized MAH Property units.

## **Section 704** Subordinate Financing

### **704.01** Interest Rate and Payments

#### Requirements

You must ensure that the subordinate loan has:

- a fixed rate;
- interest payable on a current basis; and
- no deferrals, except as described in this Section.

### **704.02** Loan Term

#### Requirements

A fully amortizing subordinate loan may mature at any time regardless of the:

- **Maturity Date of the Mortgage Loan or any Pre-Existing Mortgage Loans**; or
- expiration date of the Fannie Mae Credit Enhancement Instrument.

You must ensure that any subordinate loan that does not fully amortize or is not fully forgiven by the loan document terms, including any Soft Financing, does not mature before 90 days after the earlier of the:

- final **Maturity Date of the Mortgage Loan or any Pre-Existing Mortgage Loans**; or
- expiration date of the Fannie Mae Credit Enhancement Instrument for the **Mortgage Loan or any Pre-Existing Mortgage Loans**.

### **704.03** Collateral



## → Guidance

You may secure the subordinate loan with a Lien on the Property if:

- the Lien is subordinated to the Lien of the Security Instrument per Sections 704.08 - 704.11 of this Chapter; and
- the granting clause of the security instrument creating the subordinate Lien is the same as that of the Security Instrument.

### 704.04 Credit Support

#### ☑ Requirements

You must ensure that the Mortgage Loan secured by the MAH Property obtains the same credit support and collateral as any subordinate loan, including any

- recourse to the Borrower or third-party Guarantor, or
- additional collateral.

### 704.05 Soft Financing

#### ☑ Requirements

To be considered Soft Financing, the subordinate debt loan must have comply with all of the following:

1. P&I payments made only from the surplus NCF remaining after all other payments (due and owing) are made on Pre-Existing Mortgage Loans;
2. unpaid interest that either
  - does not accrue, or
  - accrues, but can only be satisfied from the surplus NCF;
3. agreement from the subordinate Lender to execute a Subordination Agreement with any future first Lien Lender that refinances any UPB on the Mortgage Loan secured by the MAH Property;
4. the Borrower's failure to make an interest or principal payment due to a lack of surplus NCF is not considered a default under the Soft Financing subordinate debt; and
5. the Borrower retains a minimum 25% equity share in the surplus NCF unless
  - the Property has LIHTC;



- the Soft Financing Note is payable to the developer, and
- the developer (or entities related to the developer) owns or controls more than 50% of the general partner (or equivalent managing) interest of the Borrower.

Term	For All Soft Financing...
<p><u>Payments</u></p>	<ul style="list-style-type: none"> <li>• <u>Any payments due must be payable only from the surplus NCF remaining after all other payments (due and owing) are made on the Mortgage Loan or any Pre-Existing Mortgage Loans.</u></li> <li>• <u>No more than 75% of the surplus NCF must be available for payments on all Soft Financing unless the note is payable to the Sponsor or an Affiliate, or the:</u> <ul style="list-style-type: none"> <li>– <u>Property has LIHTCs;</u></li> <li>– <u>note is payable to the Sponsor; and</u></li> <li>– <u>the Sponsor or an Affiliate owns or controls more than 50% of the interest in the Borrower or the Borrower's general partner or managing member.</u></li> </ul> </li> </ul>
<p><u>Events of Default</u></p>	<ul style="list-style-type: none"> <li>• <u>No action or condition results in an event of default unless the Borrower fails to</u> <ul style="list-style-type: none"> <li>– <u>comply with required affordability restrictions,</u></li> </ul> <u>or</u> <ul style="list-style-type: none"> <li>– <u>pay P&amp;I when surplus NCF is available.</u></li> </ul> </li> <li>• <u>Failure to pay P&amp;I due to lack of surplus NCF must not be an event of default.</u></li> </ul>
<p><u>Remedies</u></p>	<p><u>Acceleration must only be for noncompliance with required affordability restrictions.</u></p> <p><u>For example, for loans subject to the Tax Credit Exchange Program per Section 1602 of the American Recovery and Reinvestment Tax Act of 2009, repayment must only be required for noncompliance with required affordability restrictions</u></p>
<p><u>Subordination</u></p>	<p><u>Subordination must comply with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 704.08: Subordination Agreement.</u></p>



→ Guidance

Soft Financing may ~~also include~~ have:

- a Loan term significantly longer than the term of the Mortgage Loan, with the subordinate loan either
  - being forgiven over time or at the maturity date of the Soft Financing, or
  - due only upon the sale of the Property;
- a nominal interest rate (e.g., 1% or 2%); ~~or~~
- principal payments on the Soft Financing that do not fully amortize the subordinate debt over its term.
- interest that does not accrue;
- principal payments that do not fully amortize the subordinate loan over its term; or
- a loan term significantly longer than the Mortgage Loan term, with the subordinate loan either
  - being forgiven over time or at its maturity date, or
  - due only upon the sale of the Property.

**704.06** Subordinate Lender

Requirements

If the Lender type is...	Then...
Public / Quasi-Public / Not-for-Profit Lender	A subordinate loan provided by a public, quasi-public, or not-for-profit Lender may <ul style="list-style-type: none"> <li>- be Soft Financing, or</li> <li>- require mandatory payments of P&amp;I, or interest-only.</li> </ul>
Private Lender	You must ensure that any subordinate financing originated by a private, for-profit Lender is Soft Financing per Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 704.05: Soft Financing.



#### 704.07 Developer's Notes

##### Requirements

You must ensure that any developer note or advance due the Borrower Sponsor only secures a commitment to repay developer advances or unpaid development costs with the proceeds of a mortgage loan secured by the an Property Affiliate if the subordinate financing is Soft Financing per Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 704.05: Soft Financing.

#### 704.08 Subordination Agreement

##### Requirements

You, the Borrower, and the subordinate Lender must enter into either:

- Fannie Mae form Subordination Agreement (Affordable) (Form 6456), if the subordinate Lender is a government entity; or
- Fannie Mae form Subordination Agreement (Conventional) (Form 6414), if the subordinate Lender is not a government entity.

#### 704.09 Lien Priority and Title Insurance Policy

##### Requirements

You must ensure that:

- The Lien securing the subordinate loan remains, at all times, subordinate to the Lien of the Security Instrument securing the Pre-Existing Mortgage Loans or Credit Enhancement Mortgage Loan, including any refinancing of the Pre-Existing Mortgage Loans.
- The Subordination Agreement is recorded in the land records immediately after the subordinate security instrument is recorded.
- The title insurance policy reflects the recordation of the Subordination Agreement.

#### 704.10 Form of Subordinate Loan Documents

##### Requirements

You must confirm that the subordinate loan documents:



- comply with this Chapter;
- include the specific provisions required by the Subordination Agreement;
- do not require the Borrower to maximize rents at the Property (even if the Property is subject to an Affordable Regulatory Agreement); and
- are not in the form of subordinate Bonds.

#### 704.11 Prepayment

##### Requirements

The Borrower may not prepay or redeem the subordinate loan without Fannie Mae's consent.

#### 704.12 LIHTC Equity Bridge Loans

##### Requirements

The LIHTC equity bridge lender must not be on ACheck, and the LIHTC equity bridge loan must be fully repaid with the final LIHTC equity payment associated with the Property's placed-in-service date. If the LIHTC equity bridge loan is not repaid with the final LIHTC equity installment, the unpaid portion must be Soft Financing per Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 704.05: Soft Financing.

LIHTC Equity Bridge Loan	Requirements
<u>Term</u>	<u>Maximum of 24 months.</u>
<u>Repayment</u>	<u>Must be completely repaid on or before the final LIHTC equity payment associated with the Property's placed-in-service date.</u>
<u>Amount</u>	<u>Maximum of 80% of aggregate LIHTC equity contribution.</u>
<u>Funding Conditions</u>	<u>No performance hurdles or Property performance benchmarks tied to bridge loan payments.</u>
<u>Note</u>	<ul style="list-style-type: none"> <li>- <u>Non-recourse to Borrower.</u></li> <li>- <u>Fixed or variable rate.</u></li> </ul>



LIHTC Equity Bridge Loan	Requirements
Guaranty (Repayment or Completion)	Must be subordinated to any Guaranty in favor of Fannie Mae.

Bridge Loan Collateral Types (multiple types allowed)	Bridge Lender Affiliated with You or LIHTC Investor	Bridge Lender Unaffiliated with You, LIHTC Investor, or Sponsor	Bridge Lender Affiliated with Sponsor
Assignment of Rights to Capital Contribution from LIHTC Equity Investor	Acceptable	Acceptable	Unacceptable
Assignment of Development Fee	Acceptable	Acceptable	Acceptable
Subordinate Security Instrument	Unacceptable	Unacceptable	Unacceptable
Assignment of General or Limited Partnership Interests	Acceptable if Bridge Lender has LIHTC experience	Acceptable if Bridge Lender has LIHTC experience	<ul style="list-style-type: none"> <li>Acceptable for general partnership Interests</li> <li>Unacceptable for limited partnership Interests</li> </ul>
Subordination Agreement	Conventional Form	Conventional Form	Affordable Form





## Section 705

## Restrictive Covenants and Affordable Regulatory Agreements

### Requirements

You must review For MAH Properties and non-MAH Properties, the Affordable Regulatory Agreement to ensure there are no provisions that, if except for a Borrower HUD defaulted Use Agreement, would

- grant rights, remedies, or powers similar to that of a secured creditor to any aggrieved party, or
- impair the Lien rights or priority of the Lien of the Security Instrument.

If the Affordable Regulatory Agreement contains any of these provisions, Fannie Mae will only purchase the Mortgage Loan if the Affordable Regulatory Agreement is must be subordinated to the Lien of the Security Instrument if the agreement:

- grants rights, remedies, or powers similar to that of a secured creditor to any aggrieved party;
- impairs the Lien rights or priority of the Lien of the Security Instrument;
- contains any Borrower obligations other than the affordability restrictions;
- contains any rights or remedies to enforce the affordability restrictions other than specific performance or injunctive relief; or
- does not terminate upon Mortgage Loan foreclosure.

To subordinate the Affordable Regulatory Agreement to the Security Instrument Security InstrumentLien

- using a Subordination Agreement approved by Fannie Mae, or



- ~~if the Affordable Regulatory Agreement is in connection with a subordinate loan, using Fannie Mae form Subordination Agreement (Affordable) (Form 6456).~~
- use an approved Subordination Agreement, or
- for a subordinate loan, use Subordination Agreement (Affordable) (Form 6456).

### ➔ Guidance

The rights, remedies, and powers of a secured creditor would typically include:

- the ability to appoint a receiver;
- the right to collect rents directly from the mortgaged property;
- the right to take possession of the mortgaged property;
- limitations on transferring title to you or to a subsequent transferee by foreclosure or deed in lieu;
- no requirement to give you notice of violations of or amendments to the Affordable Regulatory Agreement; and
- the ability to remove or replace the Property manager without your prior consent.

The Affordable Regulatory Agreement does not need to be subordinated to the Lien of the Security Instrument if the Affordable Regulatory Agreement:

- ~~has no Borrower obligations other than the affordability restrictions;~~
- ~~has no rights or remedies to enforce the affordability restrictions other than specific performance or injunctive relief; and~~
- ~~terminates upon foreclosure of the Mortgage Loan.~~

## Section 706

### ROAR Loan

#### 706.01 Generally

##### Requirements

You must ensure ~~that~~ any ROAR Loan:

- is a Mortgage Loan or Credit Enhancement Mortgage Loan using a



### Credit Enhancement Instrument;

- has a fixed rate;
- has a minimum Mortgage Loan amount of \$5 million; and
- ~~currently has Stabilized Residential Occupancy, but will likely experience tenant displacement significant enough to lower the Underwritten DSCR, calculated using the Gross Note Rate, below the required DSCR set forth in Form 4660; and~~
- is secured by an MAH Property that:
  - currently has Stabilized Residential Occupancy, but will likely experience tenant displacement significant enough to lower the Underwritten DSCR, calculated using the Gross Note Rate, below the required DSCR set forth in Form 4660; and
  - ~~that~~ will undergo repairs, replacements, or improvements costing \$10,000 per unit or more (based on the total number of residential units at the Property), or qualifies as a Moderate Rehabilitation Property; ~~and.~~
  - ~~the repairs and improvements will be completed within 18 months after the Mortgage Loan Origination Date.~~

## 706.02 Timing

### Requirements

Within 18 months after the Mortgage Loan Origination Date

- the ROAR Work must be completed, and
- Restabilized Residential Occupancy must be achieved.

## 706.03 General Underwriting

### Guidance

In addition to complying with Part III, Chapter 3: Moderate Rehabilitation Mortgage Loans, you should also review and evaluate:

- the reasonableness of the estimated cost of the ROAR Work and the completion schedule;
- whether the ROAR Work can be completed and the Restabilized Residential Occupancy achieved within 18 months after the Mortgage Loan Origination Date;



- the Borrower's experience in developing or rehabilitating properties similar to the ROAR Property;
- the tenant relocation plan, including budget and schedule;
- the ROAR Work budget, including monthly sources and uses during the rehabilitation period;
- any construction risks;
- the LIHTC investors' financial strength, experience, and reputation; and
- the projected rent levels relative to market rents.

#### 706.04 Additional Underwriting and Loan Documents

##### Requirements

You must underwrite the ROAR Loan per the following table.

Topic	Description
Underwritten NCF	GPR must comply with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 703.01: Underwritten NCF; Underwritten NCF can be based on the Restabilized Residential Occupancy and normalized operating expenses achievable within 18 months after the Mortgage Loan Origination Date.
Appraisal	The Appraisal must include an opinion of the value of the Property on both an "as is" and an "as completed" basis that incorporates the ROAR Work to be completed after the Mortgage Loan Origination Date.
Occupancy During ROAR Work	Physical Occupancy: minimum of 50%; and Economic Occupancy: minimum of 50%.



Topic	Description
Minimum DSCR During ROAR Work	Using the <a href="#">ROAR Stressed NCF</a> , actual fixed interest rate, and maximum loan amount based on the “as completed” value <ul style="list-style-type: none"> <li>- 0.75 on an amortizing basis, or</li> <li>- 1.00 on an interest-only basis, if applicable.</li> </ul>
Rehabilitation Reserve Agreement	Required.
Key Principal Guaranties	The <a href="#">Key Principal</a> must execute a <ul style="list-style-type: none"> <li>- <a href="#">Completion Guaranty (Form 6018)</a>, and</li> <li>- an operating deficit guaranty.</li> </ul>
Letter of Credit	Any <a href="#">Letter of Credit</a> must: <ul style="list-style-type: none"> <li>- comply with <a href="#">Part I, Chapter 2: Mortgage Loan, Section 204: Letters of Credit</a>; and</li> <li>- equal at least 125% of the difference between the maximum <a href="#">Mortgage Loan</a> amount based on               <ul style="list-style-type: none"> <li>▪ the “as completed” value, and</li> <li>▪ the “as is” value.</li> </ul> </li> </ul>
Additional Credit Support	May be required.
Underwriting Fee	You must: <ul style="list-style-type: none"> <li>- charge the <a href="#">Borrower</a> an underwriting fee equal 3 basis points of the <a href="#">Mortgage Loan</a> amount; and</li> <li>- pay that amount to Fannie Mae.</li> </ul>

## Section 707 HAP Contract Properties

### 707.01 Properties with Both HAP Contracts and LIHTC Units



Requirements

For a Mortgage Loan secured by an MAH Property or a Credit Enhancement Mortgage Loan, if the Property has both HAP contracts and LIHTC units, you must underwrite the Mortgage Loan using 1 of the following options.

Choice	Requirements
Option 1	<p>Underwrite the rents from HAP contract units using the lowest of</p> <ul style="list-style-type: none"><li>- market rents,</li><li>- HAP contract rents, or</li><li>- <del>Applicable</del> applicable LIHTC rents.</li></ul> <p><u>Applicable LIHTC rents are the lower of</u></p> <ul style="list-style-type: none"><li>- <u>maximum allowable LIHTC rents minus utility allowances, or</u></li><li>- <u>actual rents in place for occupied units subject to a LIHTC Affordable Regulatory Agreement.</u></li></ul>



Option 2	<p>Underwrite the rents from HAP contract units using the additional income above the LIHTC rents (LIHTC overage) if the HAP contract rents are less than market rents.:</p> <ul style="list-style-type: none"><li>- at least 20% of the Property's units are subject to a project-based HAP contract;</li><li>- the HAP contract rents are less than or equal to market rents;</li><li>- the weighted average LIHTC unit rents are least 10% below market</li><li>- the MAH Property is located in a market or submarket with 90% or greater economic occupancy, both for market rate and MAH Properties; and</li><li>- the Sponsor has experience and success owning and operating properties with HAP contracts.</li></ul> <p>If the HAP contract expires before the Mortgage Loan Maturity Date, you must ensure that the Property's Underwritten DSCR is greater than or equal to</p> <ul style="list-style-type: none"><li>- the Underwritten DSCR is greater than or equal to 1.05 based on the LIHTC rents; and</li><li>- the Property has an Underwritten DSCR greater than or equal to 1.10 based on the LIHTC rents when the HAP contract expires.</li><li>- 1.05 based on the LIHTC rents, and</li><li>- 1.10 based on the LIHTC rents after the HAP contract expires.</li></ul>
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You may use Option 2, or eliminate the Restabilization Reserve under either option, if you meet all of the following:

- all LIHTC rents are at least 10% below market;
- the MAH Property is located in a market or submarket with 90% or greater economic occupancy; and
- the Sponsor is experienced and successful in owning and operating properties with HAP contracts.

## 707.02 Restabilization Reserve

### Requirements

For all Tier 2 and Tier 3 Mortgage Loans, you must establish a Restabilization Reserve for an MAH Property that has a HAP contract if



the HAP contract term (excluding any annual or incremental government appropriation conditions) expires before the Mortgage Loan Maturity Date.

The Restabilization Reserve must:

- equal the monthly Mortgage Loan P&I, multiplied by the greater of
  - 6 months, or
  - the lease-up period determined by the market study per Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 703.02C: Market Study; and
- remain in place until
  - the Property achieves underwritten occupancy for 90 days at market rate rents, or
  - the HAP contract is renewed with an expiration date after the Mortgage Loan Maturity Date.

You may eliminate the Restabilization Reserve if the:

- weighted average LIHTC unit rents are at least 10% below market;
- MAH Property is located in a market or submarket with 90% or greater economic occupancy, both for market rate and MAH Properties; and
- Sponsor has experience and success owning and operating properties with HAP contracts.

**707.02** HAP Contract Review Sheet

**707.03**

Requirements

Before you Deliver the Mortgage Loan, you must:

- complete the Section 8 Housing Assistance Payments (HAP) Contract Review Sheet and Certification (Form 6422); and
- confirm that all conditions for approval are met.

## Section 708

## Refinancing Section 236 Properties – IRP is Maintained





### Requirements

For Fannie Mae to consider the cash flow from an **IRP**, the **Borrower** must decouple the **IRP** from the existing Section 236 note and mortgage by

- prepaying the Section 236 Loan, and
- having the **IRP** transferred to a new **Mortgage Loan** (which will be then considered a Section 236 Loan for purposes of continuing the **IRP**).

## 708.01 No Additional Proceeds

### Requirements

If the **Borrower** is not seeking additional proceeds based on the **IRP**, you must exclude the amount of the **IRP** from the **LTV** and **Underwritten DSCR**.

## 708.02 Additional Proceeds from Mortgage Loan

### Requirements

If the **Borrower** is seeking additional proceeds from the **Mortgage Loan** based on the **IRP**, then you must ensure that:

- The **Mortgage Loan** has equal monthly payments of P&I.
- The portion of the **Mortgage Loan** sized based on the **Underwritten NCF** meets Fannie Mae's **LTV** and **Underwritten DSCR** requirements without considering the **IRP** cash flow.
- The portion of the **Mortgage Loan** sized based on the **IRP** cash flow has an **Underwritten DSCR** of at least 1.00.
- The financing structure reflects the remaining term of the **IRP** through a bifurcated note or amortization structure.

In a **Forward Commitment** transaction, if the **IRP** is decoupled from the original Section 236 Loan, you do not need to ensure principal amortization during the construction phase.

## 708.03 Additional Proceeds from Other Sources

### Requirements



If the Borrower is seeking additional proceeds from sources other than the Mortgage Loan based on the IRP, you must:

- factor the debt into the Property's overall LTV; and
- comply with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 704: Subordinate Financing.

## Section 709

### LIHTC Properties – Lender Equity Interest

#### Requirements

Fannie Mae will only purchase a Mortgage Loan secured by a LIHTC Property in which you are an equity investor (directly or indirectly) in the Borrower if the following conditions are met:

- Your equity interest in the Borrower is solely for obtaining the LIHTCs in the Property, and you have no
  - management authority for the Property, or
  - equity interest (other than the LIHTCs) in
    - the Borrower,
    - any Key Principal,
    - any Person holding a Controlling Interest in the Borrower or Key Principal,
    - any Principal, or
    - any Guarantor.
- You and the equity syndicator are organized to ensure independent analysis and decision making occurs in the
  - underwriting and approval of the debt,
  - equity investments, and
  - servicing of the Mortgage Loan.
- You comply with the Underwriting Restrictions for Conflict Mortgage Loans per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 310.02: Restrictions.
- Any subordinate loans secured by the Property comply with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 704: Subordinate Financing.
- Your underwriting submission includes:
  - a description of the relationship among the
    - Lender,
    - Borrower, and
    - applicable Lender Affiliate; and
  - an organizational chart or diagram showing:
    - the complete Borrower ownership structure, including any Lender or Lender Affiliate equity interest; and
    - each entity's ownership interest.



## Section 710

## Transactions with Fannie Mae Debt and Equity Interests

### 710.01 Transactions Funded with Tax-Exempt Bond Proceeds

#### ☑ Requirements

If a **Mortgage Loan** will be funded with tax-exempt bond proceeds and the **Property** securing the **Mortgage Loan** qualifies for **LIHTC/**LIHTCs, you must confirm:

- If Fannie Mae owns or plans to acquire a direct or indirect equity interest in the **Borrower**, it does not own or intend to acquire an interest in the tax-exempt **Bonds**.
- If Fannie Mae owns or plans to acquire an interest in the tax-exempt **Bonds**, it does not own or intend to acquire a direct or indirect equity interest in the **Borrower**.

### 710.02 Fannie Mae Credit-Enhanced Tax-Exempt Bond Issuance

#### ☑ Requirements

You must confirm that if Fannie Mae credit enhances tax-exempt **Bonds** issued to fund a **Mortgage Loan**, it does not also own or intend to acquire a direct equity interest in the **Borrower**.

If Fannie Mae owns or intends to acquire an indirect equity interest in the **Borrower** through a fund, you must confirm:

- Fannie Mae's indirect equity interest in the **Borrower** is less than 50%;
- in the case of **an** LIHTC transaction:
  - the IRS documentation filed in connection with the **Bond** issuance shows that none of the **Bond** proceeds were applied to pay any portion of Fannie Mae's credit enhancement fee;
  - the **Bond** issuer and the **Borrower** have either
    - entered into **an** LIHTC agreement that acknowledges Fannie Mae's equity interest, or
    - consented in writing to Fannie Mae's equity interest; and
  - any required notices to the **Borrower** and the issuer under **an** LIHTC agreement have been provided; and



- in the case of a non-LIHTC transaction, the issuer and the Borrower have consented in writing to Fannie Mae's equity interest.

## Section 711 FHA Risk Sharing

### 711.01 Description

#### ➔ Guidance

Fannie Mae and the HUD have a risk sharing agreement to share risk on Mortgage Loans for certain MAH transactions. HUD's risk sharing is in the form of mortgage insurance from FHA. HUD takes 50% of the risk of loss, and the remaining 50% of the loss is shared by you and Fannie Mae.

### 711.02 Eligibility

#### 711.02A Borrowers, Key Principals, Guarantors, and Principals

##### ☑ Requirements

You must ensure that the Borrower (and each Key Principal, Guarantor, and Principal) is not on the most current "List of Parties Excluded from Federal Procurement or Nonprocurement Programs".

#### 711.02B Generally

##### ☑ Requirements

You must ensure that:

- All FHA Risk Sharing Mortgage Loans are fixed rate with no interest-only period.
- The minimum Mortgage Loan term is 15 years.
- The Property has an affordability restriction where
  - at least 20% of the units are rent-restricted and occupied by families with incomes no more than 50% of AMI as adjusted for family size, or
  - at least 40% (25% in New York City) of the units are rent-restricted and occupied by families with incomes no more than 60% of AMI as adjusted for family size.



- The residential unit's gross rent is restricted to no more than 30% of the unit's Imputed Income Limitation per Section 42 of the Internal Revenue Code.
- Rent, income, and/or occupancy restrictions are in effect for at least the term of the Mortgage Loan. For MAH Properties with remaining affordability restrictions of less than 18 years, the affordability restrictions will be considered senior to the Lien of the Mortgage Loan when enforcing restrictions.

### Guidance

#### The Property is not located in:

- ~~All FHA Risk Sharing Mortgage Loans are fixed rate with no interest-only period.~~
- ~~The minimum Mortgage Loan term is 15 years.~~
- ~~The Property qualifies as an MAH Property.~~
- ~~Rent, income, and/or occupancy restrictions are in effect for at least the term of the Mortgage Loan. For MAH Properties with remaining affordability restrictions of less than 18 years, the affordability restrictions will be considered senior to the Lien of the Mortgage Loan when enforcing restrictions.~~
- a 500-year floodplain and likely occupied by tenants who may not be sufficiently mobile to avoid injury or death during floods or storms;
- a Federal Emergency Management Agency-mapped Special Flood Hazard Area 100-year floodplain (except where no buildings or Improvements other than minor grubbing) will be in the floodplain and the floodplain area will be permanently dedicated to non-development;
- the Coastal Barrier Resources System per the Coastal Barrier Resources Act, 16.U.S.C.3501; and
- a Runway Clear Zone (at a civil airport) or Clear Zone (at a military airfield) if the Property is newly constructed or substantially rehabilitated.

## 711.02C Cash Out

### Guidance

There is no limit on the amount of cash out in an FHA Risk Sharing



transaction.

### 711.03 Mortgage Insurance Premium

#### ☑ Requirements

Your pricing for [aan](#) FHA Risk Sharing Mortgage Loan must include a sufficient amount to pay the mortgage insurance premium due to FHA.

#### ➔ Guidance

Fannie Mae will make this FHA premium payment on or before its due date.

### 711.04 ~~Reserving FHA Units~~ (Deleted entire Section - See bottom of this document)

### 711.054 Subsidy Layering Review

#### ☑ Requirements

~~If there is~~ You must ensure the Borrower obtains a possibility that more than 1 subsidy layering review when required by federal laws. FHA Risk Sharing Mortgage Loans are a source of federal, state, or local governmental government assistance may fund the transaction, you must submit.

#### Operating Procedures

After the subsidy layering information per review is complete, the applicable reviewing office will issue a certification to the FHA Risk Sharing Subsidy Layering Information Borrower (Form 4672) stating the total amount of governmental assistance is not more than is necessary to provide affordable housing after taking into account other government assistance. You must receive the certification before

- Rate Lock, or
- obtaining a Commitment for a tax-exempt Bond transaction.

### 711.06 Lender FHA Risk Sharing Reserve and Loss Sharing Modifications

### 711.05

#### ✻ Operating Procedures

If a Mortgage Loan ~~has been~~ was approved for FHA Risk Sharing, your



reserve and loss you must indicate an "FHA risk sharing obligations may be reduced per" Mortgage Loan Type on the Mortgage Loan Certificate (Form 6505).



## Chapter 4 Asset Management: Loan Document Administration

### Section 401 Servicing Requirements

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#### 401.01 General

This Chapter covers asset management of performing **Mortgage Loans**. This Chapter does not apply to **Non-Performing Mortgage Loans**, unless otherwise stated. For asset management of **Non-Performing Mortgage Loans**, the **Servicer** must comply with **Part V, Chapter 6: Watchlist Management** and **Part V, Chapter 7: Non-Performing Mortgage Loans**. This Chapter covers the **Servicer's**:

- administration of **Loan Documents**, including **Collateral Agreements**;
- review of a delegated and non-delegated **Borrower** request;
- approval of a delegated **Borrower** request;
- management of insurance matters;
- review of **Transfer/Assumption** requests; and
- administration of specialty product types.

The **Servicer** must submit all **Borrower** requests, along with any additional information and required documents, through the **MAMP**. If submitting through the **MAMP** is not feasible, overnight mail must be used and sent to:

Fannie Mae  
Attention: (Drawer AM, Structured AM, Seniors AM,  
or Assumption/Transfer)  
Mailstop 8V-21  
1100 15th Street, NW  
Washington, DC 20005.

Fannie Mae email addresses and contact information for notices required in this Chapter are located in the Glossary.

#### 401.02 Monitoring Compliance with Loan Documents

For each **Mortgage Loan**, the **Servicer** must monitor the **Borrower's** compliance with the terms and conditions of the **Loan Documents**, and facilitate compliance or take appropriate actions to address any instance of noncompliance. All **Loan Documents** and all other documents required to be retained by the **Servicer** must be maintained in accordance with the **Program Rules**.





In the event of any conflict between or among the requirements of the [Guide](#), the [Disclosure Documents](#), the [Lender Contract](#), and the [Loan Documents](#), the governing priority shall be, in order:

- [Loan Documents](#);
- [Disclosure Documents](#);
- [Lender Contract](#); and
- [Guide](#).

## **Section 402**      Delegation of Decision-Making Authority; Retention of Outside Legal Counsel

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### **402.01**      Delegation of Decision-Making Authority

Fannie Mae delegates significant decision-making authority and responsibility to the [Servicer](#) to the extent specified in the Multifamily Asset Management Delegated Transaction Forms ([Form 4636 series](#)) (each, the “[Delegated Transaction Form](#)”), covering the following matters:

- [Transfers/Assumptions \(Form 4636.TA\)](#);
- [Commercial Leases \(Form 4636.CL\)](#);
- [Condemnations \(Form 4636.C\)](#);
- [Condominium/Cooperative Property Conversions \(Form 4636.CC\)](#);
- [Easements \(Form 4636.E\)](#);
- [Oil, Gas, or Mineral Rights Leases \(Form 4636.OGL\)](#);
- [Partial Releases of Collateral \(Form 4636.PR\)](#);
- [Property Management Changes \(Form 4636.PM\)](#); and
- [Use Conversions \(Form 4636.UC\)](#).

The [Servicer](#) must follow the instructions in the [Delegated Transaction Form](#), which will specify which matters are delegated and which are non-delegated. All delegated and non-delegated requests must be submitted through the [MAMP](#), with the [Delegated Transaction Form](#) and the required supporting documents.

A transaction memo must be submitted for any unusual matters not covered in the [Guide](#), or matters that could materially affect Fannie Mae’s security interests, investment interests, or the interests of



Investors in Securitized Mortgage Loans. Decision-making authority is more limited for Credit Facilities, Bulk Deliveries, and certain Seniors Housing Loan matters. Neither the Servicer nor Fannie Mae has the authority to waive any local, state, or federal law or regulation.

#### 402.02 Retention of Outside Legal Counsel

Fannie Mae often retains outside legal counsel to review non-delegated matters or other matters that require Fannie Mae's legal review. In such instance, the Servicer must obtain the Borrower's written agreement to pay the reasonable legal fees and expenses of Fannie Mae's counsel before any legal work may commence.

If Fannie Mae outside counsel review is required or requested, the Borrower must pay the applicable legal fee, which will either be a fixed fee or an estimated fee depending on the type of request. For an estimated fee request, the Servicer must notify the Borrower that the actual legal fee may be higher or lower than the estimate, depending on the ultimate scope of the request, and the time needed to resolve the issue.

Fannie Mae will:

- apprise the Servicer of any likely increases in the estimated review fee;
- provide the Servicer the amount of the fee for any fixed fee request; and
- provide the Servicer a summary invoice directly from Fannie Mae's outside counsel.

Upon receipt of the invoice, the Servicer must arrange for payment of Fannie Mae's legal fees. The legal fee must be collected from the Borrower before engaging Fannie Mae outside counsel.

### Section 403

#### Execution of Documents by Servicer – Limited Power of Attorney

Fannie Mae may provide the Servicer with a Limited Power of Attorney conferring the right to execute certain documents as attorney-in-fact on behalf of Fannie Mae. If granted, the actions authorized in the Limited Power of Attorney will be specifically limited, and allow the Servicer to execute only those documents listed in the Limited Power of Attorney. To exercise the Limited Power of Attorney the Servicer must execute documents as "[Name of Servicer], as Attorney-in-Fact for Fannie Mae". The Servicer's designation as attorney-in-fact will be



subject to review and renewal, and the power granted under the [Limited Power of Attorney](#) may be revoked by Fannie Mae at any time. Requests for new and replacement [Limited Power of Attorney](#) should be submitted through the [MAMP](#) or as required by [Part V, Chapter 4: Asset Management: Loan Document Administration, Section 401.01: General](#). As each [Limited Power of Attorney](#) expires on a specified date according to its terms, the [Servicer](#) must monitor the expiration date and request a new [Limited Power of Attorney](#) at least 30 days prior to the expiration date.

## Section 404 Execution of Documents by Fannie Mae

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### 404.01 Submission of Documents to Fannie Mae

All documents requiring execution by Fannie Mae (clearly identified by Fannie Mae [Loan Number](#)) must be sent to [Multifamily Asset Management](#). Fannie Mae will execute the documents without prior review if the [Servicer](#) provides the certifications described in this Section.

The [Servicer](#) must include directions for returning the documents, including:

- contact name;
- overnight delivery mailing address;
- phone number; and
- email address.

### 404.02 Servicer Certification When Fannie Mae Approval Is Not Required

For any document submitted to Fannie Mae for execution when the servicing decision has been delegated to the [Servicer](#), the [Servicer](#) must provide written certification to Fannie Mae that:

- the [Servicer](#) has reviewed the proposed transaction, and approval by the [Servicer](#) is in compliance with the [Guide](#), the [Loan Documents](#), any [Disclosure Documents](#), and the [Lender Contract](#);
- the [Servicer](#) has approved the proposed transaction;
- no approval or waiver is required from Fannie Mae;
- [Servicer's](#) legal counsel has reviewed and approved all relevant documents associated with the transaction, and determined that those documents are sufficient to fully



effectuate the transaction; and

- any material changes to Fannie Mae form [Loan Documents](#) have been approved by Fannie Mae.

#### **404.03** Servicer Certification When Fannie Mae Approval Is Required

For any document submitted to Fannie Mae for execution when the servicing decision has not been delegated to the [Servicer](#), the [Servicer](#) must provide written certification to Fannie Mae that:

- the [Servicer](#) has reviewed the proposed transaction, and approval by the [Servicer](#) is not delegated under the [Guide](#);
- the [Servicer](#) recommends approval by Fannie Mae of the proposed transaction;
- any required waivers have been submitted by the [Servicer](#);
- [Servicer's](#) legal counsel has reviewed and approved all relevant documents associated with the transaction, and determined that those documents are sufficient to fully effectuate the transaction; and
- any material changes to Fannie Mae form [Loan Documents](#) have been approved by Fannie Mae.

### **Section 405** Fees Due to Fannie Mae

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Certain fees may be due to Fannie Mae in connection with a [Borrower](#) servicing request. The specified fees are for typical requests; however, higher fees may be required for complicated or non-standard requests, or for other matters not specified in this Chapter. No later than 10 [Business Days](#) following receipt of any fee by the [Servicer](#), the [Servicer](#) must remit to Fannie Mae, by wire transfer of immediately available funds, Fannie Mae's portion of the fee. The [Servicer](#) must submit the wire transfer confirmation number, wire date, and wire amount through the [MAMP](#) immediately following each funds transfer, as follows:

ABA Number: 021 039 500

Telegraphic Abbreviation: FNMA/NYC

Account Number: 169220242

Note: Type of fee (e.g., Assumption/Transfer),  
Fannie Mae Loan Number and Property Name

Attention: Trans code 507 - GL 747669921.

### **Section 406** Follow-Up Actions by the Servicer

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The **Servicer** must take all applicable actions required to fully effectuate the transaction, including:

- amending the recorded **Security Instrument** or filed Uniform Commercial Code (**UCC**) financing statements;
- updating the **Property** survey;
- obtaining an endorsement to the mortgagee's title insurance policy showing no impairment of Fannie Mae's **Lien** position, and dating down title to reflect any recorded amendment to the **Security Instrument**;
- recording all applicable documents, and sending the required documents through the **MAMP**;
- sending an executed original copy of any new or amended **Loan Document** to **Multifamily Certification and Custody** within 15 **Business Days**;
- following the requirements of **Part V, Chapter 3: Custodial Account Requirements, Section 301: Custodial Accounts** if changes are required to any existing **Collateral Agreement Custodial Account**, or if any new **Collateral Agreement Custodial Account** must be established in connection with the transaction;
- retaining copies of all documents, correspondence, and any internal notes or analysis relating to the transaction in the **Servicing File**; and
- taking any other actions the **Servicer** or its legal counsel determines are necessary.

## **Section 407**      Subordinate Financing

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### **407.01**      Non-Fannie Mae Subordinate Financing

A **Subordinate Loan** is generally not permitted unless it complies with Fannie Mae's requirements. Approval of any **Subordinate Loan** is not delegated to the **Servicer** and must be approved in advance by Fannie Mae. Additionally:

- with respect to any **Subordinate Loan**, the **Servicer** must abide by the terms and conditions of the **Loan Documents**, the **Guide**, and any **Disclosure Documents**, provided that the **Loan Documents** will control in the case of any conflict;
- unless the **Loan Documents** explicitly allow a **Subordinate Loan**, the **Servicer** must not permit the **Borrower**, without prior Fannie Mae approval, to incur the **Subordinate Loan** or allow a **Lien** securing the **Subordinate Loan** to be placed



against the **Property**;

- if the **Loan Documents** explicitly allow a **Subordinate Loan** without the approval of the **Lender**, the consent of the **Servicer** or Fannie Mae is not required; however, notice of the **Subordinate Loan** and a copy of any documents must be submitted through the **MAMP**;
- the **Borrower** and the subordinate lender must enter into and record the appropriate Subordination Agreement (**Form 6414** or **Form 6456** for the 6000 series **Loan Documents**; **Form 4503** or **Form 4507** for the 4000 Series **Loan Documents**); and
- the proceeds of the **Subordinate Loan** must benefit the **Property** (i.e., cash-out financing is not permitted).

The **Servicer** must immediately notify **Multifamily Asset Management** in writing upon learning of any unauthorized additional unsecured debt or indebtedness secured by a **Lien** on the **Property** or of any pledge of ownership interests that is not permitted by the **Loan Documents**, and send the **Borrower** a Reservation of Rights Letter (**Form 4804**) with a copy submitted through the **MAMP**. Fannie Mae will determine whether to approve the **Subordinate Loan**, or exercise its remedies.

#### **407.02** Prerequisite for Subordinate Financing

**Part III, Chapter 14: Supplemental Mortgage Loans**, contains the requirements for **Supplemental Mortgage Loans**, and **Part III, Chapter 7: Multifamily Affordable Housing Properties** contains additional requirements for subordinate financing with respect to a **Multifamily Affordable Housing Property**. The **Servicer** must ensure adherence to all applicable requirements.

#### **407.03** Fees for Subordinate Financing

The **Borrower** must pay the **Servicer** a \$2,500 review fee. The **Servicer** may increase or decrease its fee at its discretion. No Fannie Mae review fees are due. The **Servicer** may also seek reimbursement from the **Borrower** for all reasonable out-of-pocket costs, including reasonable legal fees incurred by **Servicer's** counsel.

If Fannie Mae outside counsel is engaged, the **Borrower** must pay its fee, estimated at \$2,500 for Subordinate Financing requests. The actual legal fee may be higher or lower, depending on the ultimate scope of the request and the time necessary to resolve. The **Servicer**



will receive a summary invoice directly from Fannie Mae outside counsel and must arrange for payment. The **Servicer** will be apprised of any likely increases in the estimated review fee. The estimated legal fee must be collected from the **Borrower** before engaging Fannie Mae outside counsel.

#### 407.04 Submitting the Request for Subordinate Financing

Any **Borrower** request for approval of a **Subordinate Loan** must be reviewed by the **Servicer**. If acceptable, the request must be submitted for approval through the **MAMP** in accordance with the following:

- the **Servicer** must submit the request to Fannie Mae at least 30 days before the projected closing date of the **Subordinate Loan**; and
- the submission must contain:
  - an **Appraisal** (obtained at the **Borrower's** cost), dated no earlier than 90 days prior to the date of the **Borrower** request for approval of the **Subordinate Loan**, that complies with Part II, Chapter 2: Valuation and Income, Section 201: Market and Valuation;
  - **Servicer's** underwriting spreadsheet showing the **Subordinate Loan's** effect on the **Property's** income, expenses, **NCF**, **DSCR**, and **LTV**;
  - a copy of the final, unsigned loan documents evidencing the **Subordinate Loan**, with the loan amount, interest rate, payment schedules, and all other transaction related information completed;
  - the **MBA** Standard Inspection Form documenting a physical inspection of the **Property**, performed at **Borrower's** expense, occurring no earlier than 90 days before the date of the **Borrower** request for the **Subordinate Loan**; provided that, if the **Servicer's** inspection of the **Property** reveals that the **Property** is not being properly maintained, the **Borrower** request will not be approved by Fannie Mae unless:
    - a **Replacement Reserve** is sufficiently funded; and
    - the **Borrower** makes any immediate repairs identified by the **Servicer** prior to the closing date of the **Subordinate Loan**; and
  - a title policy endorsement for the **Property** showing no





unauthorized Liens or encumbrances of any nature against the Property.

For a Cooperative Property, the Subordinate Loan is unacceptable if the potential increase in the Cooperative Maintenance Fee necessary to cover P&I on the Subordinate Loan exceeds 10% of the current Cooperative Maintenance Fee.

#### 407.05 Fannie Mae Approval and Execution

Fannie Mae will provide the Servicer with a written decision regarding the Borrower request, after which the Servicer must notify the Borrower in writing and retain the notice in the Servicing File.

#### 407.06 Subsequent Servicer Actions

The Servicer must:

- not permit any changes to the form Subordination Agreement (Form 6414 or Form 6456 for the 6000 series Loan Documents; Form 4503 or Form 4507 for the 4000 series Loan Documents) without the prior written consent of Fannie Mae;
- obtain a satisfactory title policy endorsement effective as of the date of recordation of the subordinate security instrument that:
  - insures the Lien of the Security Instrument as senior to the Lien of the subordinate security instrument; and
  - reflects the recordation of the Subordination Agreement;
- submit a copy of the recorded Subordination Agreement through the MAMP; and
- send the original executed copy of the recorded Subordination Agreement and the title policy endorsement to Multifamily Certification and Custody within 15 Business Days, and retain copies of each in the Servicing File.

## Section 408 Administration of Collateral Agreements

#### 408.01 General Administrative Requirements





#### **408.01A** Administration of Funds

The **Servicer** must:

- administer and manage funds or collateral under all **Collateral Agreements**; and
- ensure that any disbursements of funds, or other collateral releases or reductions, are:
  - approved only for valid reasons;
  - appropriately documented; and
  - consistent with the provisions of the **Collateral Agreement** and this Section.

#### **408.01B** Funds to be Held in a Custodial Account

The **Servicer** must deposit funds held under a **Collateral Agreement** in a **Custodial Account** that meets the requirements of Part V, Chapter 3: **Custodial Account Requirements**.

#### **408.01C** Use of Funds

Funds must be used only for the purposes stated in the **Collateral Agreement**, and must not supplement a partial **P&I** payment or cover any other **Borrower** obligation unrelated to the primary purposes of the **Collateral Agreement**.

#### **408.01D** Funds as Additional Security for Mortgage Loan

All funds or other collateral held under a **Collateral Agreement** constitute additional security for the **Borrower's** obligations under the **Note** and the other **Loan Documents**. In the event of a default under the **Loan Documents**, Fannie Mae reserves the right to apply (or direct the **Servicer** to apply) the funds or other collateral held under any **Collateral Agreement** in any manner allowed under the terms of such **Collateral Agreement**. **Following a default, unless instructed by Fannie Mae, the Servicer must not:**

- release any funds or other collateral held under a **Collateral Agreement**;
- apply any funds or collateral to the repayment of the **Mortgage Loan**; or
- reimburse itself from such funds or collateral for any



**expenses or losses incurred by the Servicer.**

#### **408.01E** Servicer's Fees and Costs

If the **Collateral Agreement** contemplates the payment of fees or costs by the **Borrower**, the **Servicer** may collect and retain such fees or costs for its own account, adhering to any specific billing provisions of the **Collateral Agreement**. Any fees or costs retained by the **Servicer** must be reasonable in relation to the nature and scope of the services provided by or on behalf of the **Servicer**. The **Servicer** must not use any of the funds or other collateral held under the **Collateral Agreement** to cover such fees or costs. However, the **Servicer** may deduct such fees or costs from any disbursement of funds to the **Borrower**, provided such disbursements, fees, and costs are permitted under the **Collateral Agreement**, or if the **Borrower** otherwise agrees in writing.

#### **408.01F** Waiver or Modification of Terms of Collateral Agreement

Except as noted in this Chapter, the **Servicer** must not waive or modify the terms of any **Collateral Agreement**.

### **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 under a **Completion/Repair Agreement**, 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 Non-Compliance with Issuer Rating Requirements or Expiration of Letter of Credit**

If a draw on the **Letter of Credit** occurs due to non-compliance 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, the **Servicer** is delegated to approve all disbursement requests, including the final disbursement request, from Additional Escrows for **P&I**, **T&I**, and **Replacement Reserves** provided the disbursement meets all the requirements of:

- **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).

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

### **408.03** Completion/Repairs

#### **408.03A** General

The **Loan Documents** for administering **Completion/Repairs** are:

- for **Mortgage Loans** documented with the 6000 series **Loan Documents**, the **Multifamily Loan Agreement**, plus the:
  - **Completion/Repair Schedule**;
  - **Multifamily Loan Agreement** and Modifications to Multifamily Loan and Security Agreement (Rehabilitation Reserve - Moderate Rehabilitation/Substantial Rehabilitation); or
  - another approved Modifications to Multifamily Loan and Security Agreement; and
- For **Mortgage Loans** documented with the 4000 series **Loan Documents**, the **Completion/Repair Agreement**.

The **Servicer** must administer the **Loan Documents** to ensure the timely implementation of all **Completion/Repairs**. Once the **Completion/Repairs** are completed and comply with the **Guide**, the **Servicer** must enter the final completion dates and close out the work items for the **Mortgage Loan** in the **Completion/Repair** module in the **MAMP**. Additional information may be required for any **Mortgage Loan** assigned to Loss Mitigation. If the **Mortgage Loan** does not have work items in the **MAMP**, no further action in the **MAMP** is required.





#### 408.03B Extensions for Completion/Repairs

The **Servicer** is delegated the authority to extend the time limits for making **Completion/Repairs** if:

- the **Completion/Repairs** subject to the extension request do not involve life safety issues; and
- the **Mortgage Loan** does not have a Fannie Mae risk rating of Substandard or Doubtful.

Notwithstanding the above, the **Servicer** is delegated the authority to grant a one-time extension of 30 days for a life safety issue if the **Borrower** is diligently pursuing completion of the related **Completion/Repair**.

The duration of any permitted non-life safety extension may not exceed:

- 1 year past the original completion date specified in the **Loan Documents** for that **Completion/Repair**, for a **Mortgage Loan** without loss sharing; and
- 2 years past the original completion date specified in the **Loan Documents** for that **Completion/Repair**, for any **Mortgage Loan** with loss sharing.

The **Servicer** must submit a Non-Monetary Default Borrower Request in the **MAMP** if the required **Completion/Repairs** are not completed with this timeframe.

The **Servicer** is delegated the authority to grant a one-time extension of up to 90 days past the original completion date for any **Completion/Repairs** that are **Efficiency Measures** which the **Borrower** agreed to implement to qualify as a **Green Rewards Mortgage Loan**. The **Servicer** is not delegated the authority to extend the time limit beyond 90 days.

The **Servicer** is delegated the authority to:

- determine whether the extension requires an amendment to the **Loan Documents**; and
- document a required amendment in any form the **Servicer** determines to be legally enforceable.

#### 408.03C Completion/Repair Loan Document Amendments

**Servicers** are delegated the authority to move required





Completion/Repairs from the Completion/Repair Schedule to the Replacement Reserve Schedule, or from the Completion/Repair Agreement to the Replacement Reserve Agreement, and the associated deposit from the Completion/Repair Escrow into the Replacement Reserve, provided:

- the Completion/Repair does not involve life safety issues;
- delaying the Completion/Repair will not materially negatively impact the Property; and
- the total amount of Completion/Repairs being transferred does not exceed the lesser of (i) 25% of the original Completion/Repair Escrow, or (ii) \$75,000.

Notwithstanding the above, the Servicer is not delegated the authority to move required Completion/Repairs to the Replacement Reserve Schedule for any Efficiency Measures that the Borrower agreed to implement in order to qualify as a Green Rewards Mortgage Loan or a Green Preservation Plus Mortgage Loan.

The Servicer must:

- send the executed Loan Document amendment to Multifamily Certification and Custody within 15 Business Days;
- submit a copy of the Loan Document amendment through the MAMP for any Mortgage Loan with a Completion/Repair work item in the MAMP; and
- retain a copy in its Servicing File.

#### **408.03D** Servicer's Administrative Requirements

For all Completion/Repairs, the Servicer must:

- retain a copy of the executed Multifamily Loan Agreement and Completion/Repair Schedule or Completion/Repair Agreement in its Servicing File;
- hold all Completion/Repair Escrow funds in an account that meets the Custodial Account requirements of Part V, Chapter 3: Custodial Account Requirements;
- ensure that all necessary permits are obtained, and that all required work is satisfactorily completed in a good and workmanlike manner by the completion dates stipulated in the Loan Documents;



- process **Borrower** requisitions for funds in accordance with the terms and conditions of the **Loan Documents**;
- perform required inspections of completed work and, if appropriate, work in progress and, if necessary, arrange inspections by qualified professionals;
- ensure that the **Completion/Repair** work does not result in any mechanics' **Liens**, materialmen's **Liens**, or other **Liens** that have not been acceptably bonded over;
- promptly submit a Non-Monetary Default Borrower Request in the **MAMP** for any **Completion/Repair Loan Document** default;
- take appropriate steps to remedy or address any default under the **Loan Documents** for **Completion/Repairs**; and
- perform all other administrative duties required by the **Loan Documents** for **Completion/Repairs**.

#### **408.03E** Processing Borrower Requisitions

##### **1. General**

**Completion/Repair Escrow** funds are available to reimburse the **Borrower** for costs incurred for **Completion/Repairs** that are specifically identified in the **Loan Documents**. The **Servicer** may authorize the release of funds to cover the costs of other reasonable and necessary repairs, replacements, or improvements that are not specified in the **Loan Documents** only if the **Loan Documents** permit the disbursements, and all conditions are fully satisfied.

##### **2. Required Documentation for Disbursement**

To obtain reimbursement, the **Borrower** must submit a written requisition specifying the **Completion/Repairs** for which reimbursement is being sought, including:

- the specific **Completion/Repairs** completed;
- the quantity and price of all materials (grouped by type or category) or specific replacement items (e.g., appliances) purchased in connection with the **Completion/Repairs**; and
- the cost of all contracted labor or other services involved in completing the **Completion/Repairs**.

The **Borrower** requisition for the specified



Completion/Repairs for which reimbursement is being sought must be accompanied by:

- a Borrower certification that the specific Completion/Repairs have been completed:
  - in a good and workmanlike manner;
  - in accordance with any plans and specifications previously approved by the Servicer; and
  - in compliance with all applicable laws, ordinances, rules, and regulations of any governmental authority, agency, or instrumentality having jurisdiction over the Property;
- copies of invoices and evidence of payment for all items and materials purchased and all labor and services provided, the cost of which exceeds the lesser of \$25,000 or 1% of the UPB; and
- a release of Lien from each contractor, subcontractor, or materialman providing services or materials, the cost of which exceeds the lesser of \$25,000 or 1% of the UPB.

### 3. Disbursement of Funds (Excluding Final Disbursement)

The Servicer may disburse funds to the Borrower only if it has received all required documentation and determined that all applicable conditions for disbursement have been met, including (but not limited to) the following:

- all Completion/Repairs covered by the requisition have been completed in a good and workmanlike manner, as evidenced by the Borrower's submission and, if appropriate, an inspection of the completed work (see guidance on inspections below);
- all related invoices for items and services covered by the requisition have been paid, unless the Borrower has satisfied any applicable conditions of the Loan Documents for issuance of a joint check(s), made payable to the Borrower and the Person owed funds under such invoices;



- no mechanics' Liens, materialmen's Liens, or other Liens exist, unless acceptably bonded over; and
- no default exists under any Loan Document.

The amount disbursed to the Borrower for any requisition, other than the final requisition, may not exceed the actual cost of the Completion/Repairs, and may be less than the actual cost if, after disbursement, the amount of funds remaining in the Completion/Repair Escrow would be less than the anticipated cost of completing all remaining Completion/Repairs plus any holdback specified in the Loan Documents.

Notwithstanding the above, once 75% of the total dollar amount of Completion/Repairs is disbursed, the Servicer may release funds in the Completion/Repair Escrow, provided:

- funds are only released for Completion/Repairs that have been fully completed;
- the Servicer has complied with all other disbursement requirements;
- the Servicer completes an analysis showing that the remaining amount in the Completion/Repair Escrow is sufficient to complete all remaining Completion/Repairs;
- the Borrower affirms in writing its obligation to complete the remaining Completion/Repairs by the required completion dates; and
- the Completion/Repair is not an Efficiency Measure the Borrower agreed to implement in order to qualify as a Green Rewards Mortgage Loan, as the Servicer is not delegated the authority to release any Completion/Repair Escrow related to any Efficiency Measures.

#### 4. Final Disbursement of Funds

Before making the final disbursement of funds from the Completion/Repair Escrow, the Servicer must confirm and document the absence of any mechanics' and materialmen's Liens by requiring the Borrower to obtain an updated title report or a title policy endorsement showing that no such Liens exist. The Servicer may waive the updated title report or endorsement for Secondary Risk Mortgage Loans when the total scope of work is less than



\$75,000. If the [Borrower](#) fails to provide the required title documentation, the [Servicer](#) must obtain a title report or title policy endorsement, and may charge the [Borrower](#) for the cost.

The [Servicer](#) may make a final disbursement of all remaining funds upon satisfactory completion of all required [Completion/Repairs](#), and satisfaction of all other applicable release conditions contained in the [Loan Documents](#) for [Completion/Repairs](#).

## 5. Maintenance of Servicing File

The [Servicer](#) must document the action taken with respect to each [Borrower](#) requisition for funds from the [Completion/Repair Escrow](#) in its [Servicing File](#).

### 408.03F Inspections

#### 1. Use of Third Party

The [Servicer](#) may inspect the [Property](#), or have a qualified independent third party inspect the [Property](#), to confirm that the [Completion/Repairs](#) covered by the requisition have been satisfactorily completed. The [Servicer](#) is responsible for monitoring the third-party's performance.

#### 2. When Periodic Inspections Are Required

Periodic inspections must be performed as the work progresses if the [Completion/Repairs](#):

- exceed in the aggregate the lesser of:
  - \$500,000, or 20% of the [UPB](#) for any [Mortgage Loan](#) with loss sharing; or
  - \$250,000, or 10% of the [UPB](#) for any [Mortgage Loan](#) without loss sharing; and
- are likely to require more than 6 months to complete.

Inspections must occur at least every 6 months, or more frequently at the [Servicer's](#) discretion.

#### 3. When a Final Inspection Is Required

An inspection must be performed to ensure that all [Completion/Repairs](#) have been satisfactorily completed before approving and disbursing the final requisition when the [Completion/Repairs](#) exceed the lesser of:



- \$500,000, or 20% of the UPB for any Mortgage Loan with loss sharing; or
- \$250,000, or 10% of the UPB for any Mortgage Loan without loss sharing.

#### **4. Confirming Completion/Repairs if Inspection Is Not Required**

Even if an inspection is not required by this Section, the Borrower must provide evidence to the Servicer that all Completion/Repairs covered by the requisition have been satisfactorily completed. If not inspected sooner, the Servicer must confirm the satisfactory completion of the Completion/Repairs during the next regularly scheduled Property inspection.

#### **5. Documenting the Servicing File**

In all instances, the Servicer must document in its Servicing File whether all work was satisfactorily completed.

### **408.03G** Fees

Completion/Repair Escrow funds may not be used to cover any administrative or inspection fees due to the Servicer unless expressly permitted Loan Documents, or the Borrower agrees in writing. If permitted, the Servicer may charge the Borrower and deduct the following from any disbursement of funds:

- reasonable fees to cover the Servicer's costs of administering the Completion/Repairs; and
- additional fees to cover any reasonable inspection costs that are not adequately covered by general administrative fees collected from the Borrower.

### **408.03H** Completion/Repair Defaults

#### **1. Notification of Default to Fannie Mae**

The Servicer must immediately submit a Non-Monetary Default Borrower Request in the MAMP for any Completion/Repair Loan Document default.

#### **2. No Release of Funds to Borrower**

No funds may be released to the Borrower while the Borrower is in default under any of the Loan Documents.



## **408.04** Replacement Reserve

### **408.04A** General

The Loan Documents for administering Replacement Reserves are:

- Multifamily Loan Agreement and Replacement Reserve Schedule, for Mortgage Loans documented with the 6000 series Loan Documents; and
- Replacement Reserve Agreement, for Mortgage Loans documented with the 4000 series Loan Documents.

The Replacement Reserve funds must be held by the Servicer in a Custodial Account, and are intended to pay for necessary replacements of capital items or major maintenance work to the Property over the term of the Mortgage Loan.

### **408.04B** Replacement Reserve Loan Document Amendments

If the Servicer's Limited Power of Attorney delegates the authority to amend the Loan Documents to revise the terms governing the Replacement Reserves, only the changes expressly permitted by this Section can be made, and the delegation does not expand the Servicer's ability to change or modify any other term of the Loan Documents.

The Servicer must send the executed Loan Document Amendment to Multifamily Certification and Custody within 15 Business Days, and retain a copy in its Servicing File.

### **408.04C** Servicer's Administrative Requirements

For all Replacement Reserves, the Servicer must:

- retain a copy of the executed Multifamily Loan Agreement and Replacement Reserve Schedule or Replacement Reserve Agreement in its Servicing File;
- unless the Borrower has requested in writing a non-interest bearing account, hold all funds in an interest-bearing Custodial Account that meets the requirements of Part V, Chapter 3: Custodial Account Requirements and the Loan Documents;
- ensure that all required deposits are made to the Replacement Reserve in accordance with the Loan





#### Documents;

- process **Borrower** requisitions for funds in accordance with the terms and conditions of the **Loan Documents**;
- perform required inspections of completed work and, if appropriate, work in progress, and arrange, if necessary, for inspections by qualified professionals;
- ensure that work funded from the **Replacement Reserve** does not result in any mechanics' **Liens**, materialmen's **Liens**, or other **Liens** that have not been acceptably bonded over;
- promptly submit a Non-Monetary Default Borrower Request in the **MAMP** for any **Replacement Reserve Loan Document** default;
- take appropriate steps to remedy or address any default under the **Loan Documents** for Replacements, Repairs, or Restoration; and
- reassess the adequacy of the **Replacement Reserve** or the schedule of required deposits; and
- perform all other administrative duties required by the **Loan Documents** for the **Replacement Reserve**.

#### **408.04D** Modifications to Replacement Reserve Deposits

Based on the results of a **Property** inspection or a new **Property Condition Assessment** as required below, the **Servicer** may determine that the current level of **Replacement Reserve** funding and scheduled deposits will be insufficient to meet all projected capital item or major maintenance needs. The **Servicer** must then:

- adjust the **Replacement Reserve Schedule** or the **Replacement Reserve Agreement** and the **Replacement Reserve** funding to a sufficient level, if warranted, in accordance with the **Loan Documents** and Part III, by requiring the **Borrower** to:
  - deposit a lump sum into the **Replacement Reserve**;  
and/or
  - increase the monthly **Replacement Reserve** deposit;  
and
- give the **Borrower** at least 30 days advance written notice prior to implementing any of the foregoing changes.





Based on the results of the new **Property Condition Assessment** obtained during the underwriting and delivery of a **Supplemental Mortgage Loan**, the **Servicer** may:

- adjust the **Replacement Reserve** funding, scheduled deposits, and **Completion/Repair Schedule** of all **Pre-Existing Mortgage Loans** to match the **Supplemental Mortgage Loan** underwriting; and
- amend the **Loan Documents** accordingly.

#### 408.04E New Property Condition Assessments

##### 1. Timing and Waivers

A new **PCA** is required for:

- all **MAH Properties** every 5 years; or
- for any other **Mortgage Loan** with a term greater than 10 years, during the 10th **Loan Year**, and every 10 years thereafter, while the **Mortgage Loan** remains outstanding, or per the **Loan Documents**.

Notwithstanding the above, the **Servicer** is delegated the authority to waive the new **PCA** for non-**MAH Properties** as follows:

Remaining Loan Term	Servicer Delegation
Less than 1 Year	The new <b>PCA</b> may be waived for a <b>Mortgage Loan</b> with a: <ul style="list-style-type: none"><li>- <b>Pass</b> rating;</li><li>- <b>Property</b> inspection less than 1 year old; and</li><li>- <b>Property</b> condition rating of 1, 2, or 3.</li></ul>
1 Year to 5 Years	The new <b>PCA</b> may be waived for a <b>Mortgage Loan</b> with a: <ul style="list-style-type: none"><li>- <b>Pass</b> rating;</li><li>- <b>Property</b> inspection report less than 1 year old; and</li><li>- <b>Property</b> condition rating of 1 or 2.</li></ul>



More than 5 Years	The new PCA may be waived for 5 years for a Mortgage Loan with a:  - Pass rating; - Property Inspection report less than 1 year old; and - Property condition rating of 1 or 2.
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After 5 years, a new PCA is required unless the Mortgage Loan continues to qualify for Servicer waiver delegation. A Property may only receive a PCA waiver twice (i.e., a Mortgage Loan with a 30-year term may obtain a PCA waiver after the 10th loan year and the 15th loan year, but a new PCA is required after the 20th loan year).

All PCA waivers must be documented in the Servicing File, and any PCA waiver may be rescinded by Fannie Mae or the Servicer at any time if the Property condition warrants a new PCA.

## 2. Streamlined PCA Permitted

The Servicer may use Streamlined PCA Guidance (Form 4099.A) if the most recent Property site inspection:

- was performed according to Part II, Chapter 4: Inspections and Reserves, Section 401: Site Inspection;
- indicated an overall rating of 1 or 2; and
- did not reveal any adverse change in Property condition (except normal wear and tear) or life safety issues.

## 3. Delivery and Payment of Property Condition Assessment

The Servicer must submit any new PCA to Fannie Mae through the MAMP and retain a copy in its Servicing File. Subject to the terms of the Loan Documents, the cost of the PCA may be paid from funds in the Replacement Reserve.

### 408.04F When Replacement Reserve Funding Was Partially or Fully Waived

If Replacement Reserve funding was partially or fully waived at the Mortgage Loan Origination Date, the Servicer must monitor the condition of the Property to ensure the Borrower preserves and maintains the Property as required by the Loan Documents.

If the Servicer or Fannie Mae determines that the Borrower is not properly preserving and maintaining the Property, the Servicer must



require the Borrower to begin making monthly deposits to the Replacement Reserve in accordance with either the funding schedule set forth in the Loan Documents, or an alternative funding schedule determined by the Servicer.

#### **408.04G** Interest on Replacement Reserve Funds

If the Servicer holds the Replacement Reserve funds in an interest-bearing Custodial Account, none of the interest earned on the Replacement Reserve funds may be retained by the Servicer. Unless the Mortgage Loan is in default, all interest must be:

- added to the balance of the Replacement Reserve; or
- paid to the Borrower if applicable law requires or the Servicer agrees.

#### **408.04H** Items Eligible for Funding from the Replacement Reserve

Replacement Reserve funds are available to reimburse the Borrower for costs incurred to replace capital items or maintain major items specifically identified in the Loan Documents.

Replacement Reserve funds also may be used for discretionary replacements of capital items or major maintenance items that are not specifically identified in the Loan Documents, but which the Servicer determines are intended to be covered by a Replacement Reserve Schedule, such as those that would:

- correct or forestall a problem that may adversely affect the physical condition, livability, marketability, or value of the Property;
- directly contribute to the maintenance or enhancement of the Property's physical condition, livability, marketability, or value; or
- likely be noted in an updated Property Condition Assessment.

If Replacement Reserve funds are used for purposes not originally contemplated in the Loan Documents, the Servicer must monitor and adjust the monthly reserve deposits to ensure sufficient funds are available to make timely replacements of capital items or major maintenance items in the manner contemplated in the Loan Documents and/or the PCA.



#### **408.04I** Items Not Eligible for Funding from the Replacement Reserve

The **Servicer** must not use **Replacement Reserve** funds to reimburse the **Borrower** for any item specifically identified for reimbursement under a **Completion/Repair Agreement**, or for any routine maintenance item, routine repair, or cosmetic repair that would normally be characterized as an operating expense. **Replacement Reserve** funds must never be used for **P&I**, **T&I**, or any other purpose not specifically permitted by the **Loan Documents**, or the **Guide**.

#### **408.04J** Processing Borrower Requisitions

##### **1. General**

The **Loan Documents** specify the frequency, timing, and size of disbursements from the **Replacement Reserve**.

##### **2. Required Documentation**

Each **Borrower** requisition must be in writing and specify, at a minimum:

- the specific capital item replaced or major maintenance items for which reimbursement is being sought, and if any item is not specifically identified in the **Loan Documents**, an explanation of why the **Replacement Reserve** funds should be released for the item;
- the quantity and price of each type of capital item replaced (e.g., refrigerators);
- the quantity and price of all materials or parts (grouped by type or category) purchased; and
- the cost of all contracted labor or other services.

Each **Borrower** requisition submitted to the **Servicer** must be accompanied by:

- a **Borrower** certification that the capital item replacements or major maintenance items covered by the requisition have been completed in compliance with all applicable laws, ordinances, rules, and regulations of any governmental authority, agency, or instrumentality having jurisdiction over the **Property**;
- copies of invoices and evidence of payment for all capital items and materials purchased and all labor and services provided, the cost of which exceeds the lesser



of \$25,000 or 1% of the UPB;

- a release of Lien from each contractor, subcontractor, or material man providing services or materials, the cost of which exceeds the lesser of \$25,000 or 1% of the UPB; and
- other relevant documentation required by the Loan Documents.

### 3. Disbursement of Funds

The Servicer may release funds to the Borrower only if all required documentation is received, and all applicable release conditions have been met, including, but not limited to:

- all capital item replacements or major maintenance items covered by the requisition have been completed in a good and workmanlike manner;
- all related invoices for capital items and services have been paid, unless the Borrower has satisfied any applicable conditions of the Loan Documents for issuance of a joint check, made payable to the Borrower and the Person owed funds;
- no mechanics' Liens, materialmen's Liens, or other Liens are outstanding that have not been acceptably bonded over; and
- the Borrower is not in default under any Loan Document.

The amount disbursed to the Borrower must not exceed the actual cost of the capital item replacements or major maintenance items covered by the Borrower's requisition.

### 4. Maintenance of Servicing File

The Servicer must ensure that the action taken with respect to each Borrower requisition for funds from the Replacement Reserve is appropriately documented in its Servicing File.

## 408.04K Inspections

The Servicer may use its discretion in deciding whether to conduct an on-site inspection before approving any specific requisition for Replacement Reserve funds. If the Servicer elects not to perform an on-site inspection when a requisition is submitted, the Servicer must inspect all capital item replacements or maintenance items covered by



the requisition during its next scheduled **Property** inspection and confirm the satisfactory completion.

#### **408.04L** Fees

If the **Loan Documents** permit, the **Servicer** may collect and retain:

- a reasonable fee to cover the **Servicer's** routine costs of administering the **Replacement Reserve**; and
- additional fees to cover:
  - reasonable inspection costs, including the fees of any qualified professional used by the **Servicer**; and
  - any other reasonable costs incurred in connection with collecting, holding, investing, or disbursing **Replacement Reserve** funds but which are not adequately covered by the general administrative fees collected from the **Borrower**.

Subject to the **Loan Documents**, the **Servicer** may charge the **Borrower** a reasonable fee for any special inspection services provided in connection with a **Replacement Reserve** requisition; however, no fee may be charged if such inspection is made as part of a regularly scheduled **Property** inspection.

**Replacement Reserve** funds, including any interest, may not be used to cover fees due to the **Servicer** unless:

- the **Loan Document** specifically permits the **Servicer** to use **Replacement Reserve** funds to pay **Servicer** inspection fees; or
- the **Borrower** otherwise agrees in writing.

#### **408.04M** Replacement Reserve Defaults

##### **1. Notification of Default to Fannie Mae**

The **Servicer** must immediately submit a Non-Monetary Default Borrower Request in the **MAMP** for any **Replacement Reserve Loan Document** default.

##### **2. No Release of Funds to Borrower**

No funds may be released to the **Borrower** while the **Mortgage Loan** is in default.



#### **408.04N** Return of Replacement Reserve Funds to Borrower

No later than 30 days after the **Mortgage Loan** is paid in full, the **Servicer** must refund to the **Borrower** all remaining **Replacement Reserve** funds.

#### **408.04O** Alternative Funding of Replacement Reserves for Portfolio Mortgage Loans

The **Servicer** may amend existing the Schedule 5 to **Multifamily Loan Agreement - Replacement Reserve Schedule** or **Replacement Reserve Agreement** on Fannie Mae's behalf to match the alternative **Replacement Reserve** funding available for newly originated **Mortgage Loans** if the **Borrower** has a history of adequate property maintenance, and no other concerns are present (e.g., declining **Property** condition, declining rents, declining **Net Cash Flow**). The **Servicer** must send the executed **Loan Document** amendment revising the **Replacement Reserve Schedule** or **Replacement Reserve Agreement** to **Multifamily Certification and Custody** within 15 **Business Days**, and retain a copy in its **Servicing File**.

The **Servicer** must ensure the **Property** is properly maintained on an ongoing basis. If the **Property** is not being properly maintained, the **Servicer** must reinstate monthly deposits to the **Replacement Reserve** and the reimbursement requisition process.

## **Section 409** Interest Rate Hedge Requirements

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### **409.01** General

An acceptable **Interest Rate Hedge** must be in place and maintained at all times for:

- variable rate **Credit Enhancement Mortgage Loans**;
- Structured ARM Loans; and
- any **Mortgage Loan** where (i) the **Borrower** was permitted to execute the Fannie Mae form **Interest Rate Cap Reserve and Security Agreement (Springing Cap)** (Form 6442.SC), or a similar agreement, allowing for a "springing" **Interest Rate Cap** under certain circumstances, and (ii) the requirement of the **Borrower** to acquire and pledge to the **Lender** an **Interest Rate Cap** has been triggered under the agreement.

The **Interest Rate Hedge** may be either an **Interest Rate Cap** or **Interest Rate Swap**, although the prior approval of Fannie Mae is





required before the Borrower may enter into an Interest Rate Swap.

Each Interest Rate Hedge Agreement and its collateral assignment must meet the requirements of Part III, Chapter 12: Structured Adjustable Rate Mortgage (SARM) Loans.

Fannie Mae outside counsel must be engaged, at Borrower's cost, to review the hedge bid package and documents, and prepare the amended Loan Documents for each hedge renewal. The Servicer must submit a completed Counsel Designation Request for Interest Rate Hedge Transactions (Form 4625.A).

## 409.02 Interest Rate Hedge Coverage

### 409.02A Bond Credit Enhancement Transactions

For Bond Credit Enhancement Mortgage Loans, the Interest Rate Hedge must:

- be in place whenever the variable rate mode is in effect; and
- comply with the requirements of the Reimbursement Agreement and other Loan Documents.

### 409.02B Structured Transactions

When required for a Structured Transaction, the Servicer must ensure that the Interest Rate Hedge conforms to the applicable Master Credit Facility Agreement, Bulk Delivery Agreement, and/or the other Loan Document requirements.

### 409.02C All Hedges

At the end of each 12-month period, the Servicer must evaluate the Interest Rate Cap reserve and determine if the cost of a replacement Interest Rate Cap has increased or decreased based on market conditions.

- If the estimated cost of a replacement cap has increased, the Servicer must increase the monthly reserve payment to ensure that sufficient funds will be available to purchase the replacement cap by the end of the reserve period.
- If the estimated cost of a replacement cap has decreased, the Servicer must not adjust the reserve.

The Servicer may refund to the Borrower any amount left in





the reserve account after purchasing the replacement Interest Rate Cap.

### 409.03 Interest Rate Hedge Term

The Servicer must:

- monitor the term of each Interest Rate Hedge Agreement;
- hold all escrowed funds for an Interest Rate Hedge in an account meeting the Custodial Account requirements of Part V, Chapter 3: Custodial Account Requirements;
- engage the Borrower prior to expiration of each Interest Rate Hedge to ensure that an acceptable replacement Interest Rate Hedge is in place prior to its expiration; and
- perform any required functions with respect to the Interest Rate Hedge Agreement.

### 409.04 Lien Filings and Collateral

The Servicer must maintain all UCC filings, and ensure that Fannie Mae's Lien in the Interest Rate Hedge is maintained. The Servicer must not direct the investment, application, or release of the collateral under any Interest Rate Hedge Agreement, without express written authorization from Fannie Mae.

### 409.05 Borrower Payments

#### 409.05A Interest Rate Caps

Any payments by the Interest Rate Cap provider must be made to the Servicer and not to the Borrower. The disposition of funds depends on whether the Borrower is current on the Mortgage Loan and Reimbursement Agreement payment obligations (principal or PRF deposit, as applicable, interest, any Interest Rate Cap escrow, and all other amounts then due) or any default exists under the Reimbursement Agreement or any other Loan Document.

If no default exists, the Servicer must remit the Interest Rate Cap provider's payment to the Borrower. If a default exists, the Servicer must retain the Interest Rate Cap provider's payment as additional collateral for the Borrower's obligations, to be held in accordance with the applicable agreements, and notify Multifamily Structured Asset Management of the receipt of the payment.

If the Bond Trustee or another third party is to receive any



payments from the [Interest Rate Cap](#) provider, and the [Borrower](#) is not current on its payments or a default exists, then the [Servicer](#) must:

- notify the payee of the facts; and
- instruct the third party to withhold the payment to the [Borrower](#), and make payment to the [Servicer](#) to be held as additional collateral for the [Borrower](#)'s obligations.

#### **409.05B** Interest Rate Swaps

The [Servicer](#) must monitor the [Interest Rate Swap](#) to ensure that all payments are made on a timely basis. All payments under an [Interest Rate Swap](#) must be made directly to the [Servicer](#), which will:

- remit the amount received from the [Borrower](#) to the [Interest Rate Swap](#) provider; or
- remit the amount received from the [Interest Rate Swap](#) provider to the [Borrower](#), but only after the [Borrower](#) has made the required monthly [P&I](#) payment on the [Mortgage Loan](#).

Payments due on the [Interest Rate Swap](#) must match the payment dates on the [Mortgage Loan](#) or the [Bonds](#), as applicable. The [Servicer](#) must advance [Interest Rate Swap](#) payments and [Interest Rate Swap](#) credit enhancement fees that are not made by the [Borrower](#) or the [Interest Rate Swap](#) provider, as applicable, on a timely basis. These payments and their duration will be treated as [Delinquency Advances](#). The [Servicer](#) is not required to advance any termination payment due on the [Interest Rate Swap](#).

#### **409.06** Provider Ratings

Fannie Mae lists the credit agency rating requirements and the acceptable [Interest Rate Hedge](#) providers on [Cap/Swap Counterparties for Multifamily Transactions](#). If the rating of a provider declines to a level where termination and replacement of the outstanding [Interest Rate Hedges](#) with that provider is required, Fannie Mae will notify the affected servicers and direct them to contact their [Borrowers](#) and work with them to effect the termination and replacement. Failure to replace any [Interest Rate Hedge](#) provider whose rating no longer meets the rating requirements is a default under the [Loan Documents](#).

#### **409.07** Replacement Interest Rate Hedge and Notification



At least 90 days before termination of an Interest Rate Hedge, the Borrower must give the Servicer written notice of its intent to either obtain a new Interest Rate Hedge or, for a variable rate Credit Enhancement Mortgage Loan or Structured ARM Loan, adjust the interest rate to a Bond Reset Interest Rate or fixed rate.

If the Borrower elects to obtain a new Interest Rate Hedge, the Servicer must confirm that the possible Interest Rate Hedge providers are all on the current list of approved Cap/Swap Counterparties for Multifamily Transactions, and review the Loan Documents for the timing requirements.

If the Interest Rate Hedge expires and the Borrower has failed to provide evidence of securing the replacement Interest Rate Hedge, the Servicer must notify Multifamily Structured Asset Management immediately. Fannie Mae will instruct the Servicer's action regarding the Borrower's default.

#### **409.08** Replacement Interest Rate Hedge Documents and Follow Up

The Servicer must send to Multifamily Certification and Custody within 15 Business Days the original replacement Interest Rate Hedge documents, including the Interest Rate Cap Agreement or Interest Rate Swap Agreement, the Assignment of Hedge Interest or Supplemental Hedge Security Agreement, and UCC Financing Statements, and retain copies in the Servicing File. The Servicer must submit a copy of the new Interest Rate Cap Agreement or Interest Rate Swap Agreement through the MAMP, and provide the new Interest Rate Hedge information as follows:

- for Credit Enhancement Mortgage Loans – upload Hedge Delivery Information (Form 4643) into CESIR;
- for all Interest Rate Hedges in Credit Facility and Bulk Delivery transactions – update hedge data in MSFMS; or
- for Structured ARM Loans (except in Credit Facility and Bulk Delivery transactions) – submit Form 4643 through the MAMP.

## **Section 410**

### Ground Leases

If the Borrower owns a Leasehold interest in the Property, the Servicer must:

- ensure that the Borrower complies with all provisions of the Loan Documents that relate to the Ground Lease;



- if the **Ground Lease** payments are escrowed, collect monthly payments from the **Borrower** to ensure sufficient funds will be available to pay the ground rents and any special payments required by the **Ground Lease**; and
- hold any escrowed ground rent payments with the **Borrower's** other T&I escrow funds in a **T&I Custodial Account** or a separate **Custodial Account** that meets all requirements of **Part V, Chapter 3: Custodial Account Requirements**.

The **Servicer** is responsible for any losses incurred by Fannie Mae if the **Servicer** fails to make timely ground rent payments. The **Servicer** must immediately submit a Non-Monetary Default Borrower Request in the **MAMP** for any **Ground Lease** default.

## Section 411

### Notice of Lien or Non-**C** compliance with Applicable Laws, Ordinances and Regulations

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The **Servicer** is responsible for protecting the **Lien** priority of the **Security Instrument**, and must:

- take all reasonable actions to prevent the filing of any **Lien** that would prime the **Lien** of the **Security Instrument**;
- immediately notify **Multifamily Asset Management**, in writing, upon learning of any such **Lien** filing, including a recommendation for resolving the situation; and
- submit a Non-Monetary Default Borrower Request in the **MAMP**, if:
  - the **Servicer** is aware of any material violation by the **Borrower** or **Property** management agent of any applicable law, ordinance, regulation, or other legal requirement; or
  - the **Property** is not in compliance with any applicable law, ordinance, regulation, or other legal requirement, including, without limitation, any relating to:
    - Fair Housing Act;
    - Americans with Disabilities Act;
    - non-discrimination;
    - environmental hazards;
    - occupancy;



- zoning and land use;
- health, fire, and building codes relating to immediately hazardous conditions; and
- illegal use of the [Property](#).

The [Servicer](#) must also provide to Fannie Mae all information concerning any lawsuit, cause of action, or claim by any third party resulting from or relating to the violation.

## **Section 412** Property Forfeitures and Seizures

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Various federal and state statutes provide for the civil or criminal forfeiture of certain types of property, including real estate that is used, or intended to be used, to commit or facilitate the commission of certain violations of law.

The [Servicer](#) must not provide any information about the [Borrower](#), the [Mortgage Loan](#), the [Property](#), any [Key Principal](#), or any [Principal](#) directly to any federal or state agency unless Fannie Mae specifically authorizes the release of the information. Following any contact from a federal or state official, the [Servicer](#) must immediately contact [Multifamily Asset Management](#) and [Multifamily Special Asset Management](#). The [Servicer](#) should describe in its communication the nature of the contact, the information requested, and any document or papers received by the [Servicer](#) in connection with the contact. The [Servicer](#) must continue to service the [Mortgage Loan](#).

## **Section 413** Property and Liability Insurance

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### **413.01** Property and Liability Insurance

The [Servicer](#) must:

- ensure that the [Property](#) is continuously covered by property and liability insurance, as required by [Part II, Chapter 5: Property and Liability Insurance](#), and that all renewal premiums are paid in full and on time; and
- at least annually review the adequacy of the [Borrower's](#) insurance coverage in relation to the current requirements of [Part II, Chapter 5: Property and Liability Insurance](#).

If the existing insurance coverage or policy is inadequate, the [Servicer](#) must require the [Borrower](#) to make appropriate changes.



Periodically, the **Servicer** may be required to make certain representations to Fannie Mae regarding the property and liability insurance coverages and policies for all of the **Mortgage Loans** it services.

#### **413.02** No Financing for Property and Liability Insurance Premiums

The **Servicer** must not provide financing to the **Borrower**, or otherwise permit the **Borrower** to obtain financing, in order to pay any insurance premiums, except as permitted by **Part II, Chapter 5: Property and Liability Insurance**.

#### **413.03** Flood Map Changes; Obtaining Flood Insurance

The **Servicer** must monitor all flood map and community status changes, and take appropriate action when changes affecting **Mortgage Loans** it services occur as required by **Part II, Chapter 5: Property and Liability Insurance**. When a **Property** is remapped into a **Special Flood Hazard Area**, the **Servicer** must require the **Borrower** to obtain flood insurance, regardless of whether the community is “participating” in the **National Flood Insurance Program**. The flood insurance policy must be in place within 45 days after the effective date of the remapping. If the **Borrower** refuses to obtain the required coverage or pay a disputed premium, the **Servicer** must obtain the required coverage. The **Servicer** must contact **Multifamily Insurance** if:

- a **Property** is in a **Special Flood Hazard Area**;
- the community in which the **Property** is located does not participate in the **National Flood Insurance Program**; and
- the **Borrower** cannot obtain the required flood insurance.

#### **413.04** Lender Placed Insurance

##### **413.04A** Property and Liability Insurance

If the **Borrower** fails to obtain acceptable insurance coverage, the **Servicer** must immediately obtain acceptable insurance coverage for the **Property** at the **Borrower**’s expense.

##### **413.04B** Flood Insurance

If acceptable insurance coverage cannot be obtained, the **Servicer** must immediately contact **Multifamily Insurance** to determine the appropriate course of action.



#### 413.04C Servicer's Administrative Costs and Expenses

The **Servicer** is permitted to collect from the **Borrower** any reasonable out-of-pocket costs and expenses incurred by the **Servicer** to obtain insurance coverage for the **Property**.

### Section 414 Casualty Losses – Performing Mortgage Loans

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#### 414.01 Notice

In the event of a casualty loss of \$75,000 or more, the **Servicer** must submit through the **MAMP** a:

- Report of Multifamily Hazard Insurance Loss (**Form 178**):
  - within 30 days if no serious injury or death occurred; or
  - within 10 days if serious injury or death occurred; and
- final **Form 178** indicating that the **Property** is fully restored, and document its **Servicing File** when the **Property** is fully restored.

A revised **Form 178** must be submitted if any of the information on the form changes for any casualty loss greater than the lesser of (i) \$500,000, or (ii) 20% of the **UPB**.

#### 414.02 Filing Proof of Loss

For any casualty loss covered by the **Borrower's** insurance policy, the **Servicer** must ensure that the **Borrower** timely files a proof of loss with the insurance carrier, and effects a prompt and reasonable adjustment of the loss. If the **Borrower** fails to timely file a proof of loss with the insurance carrier, or take requisite actions to effect a prompt adjustment of the loss claim, the **Servicer** must independently contact the insurance carrier to adjust the loss claim.

#### 414.03 Casualty Loss Assessment

The **Servicer** must assess the extent and impact of any damage caused by a casualty, and ensure that the **Borrower** appropriately addresses the damage.

Within 45 days after learning of a casualty loss, the **Servicer** must document its **Servicing File** with the results of its casualty loss assessment. At a minimum, the **Servicer** must include:





- when the casualty loss occurred and when the **Servicer** was first informed of the casualty loss;
- the scope of the damage and its effect on the **Property** (e.g., impact on the habitability of the buildings, safety of the residents, serious injury or loss of life, project occupancy, and project income and expenses);
- the **Borrower's** plan of action for securing and restoring the damaged portion of the **Property**, and the status of the **Borrower's** efforts to implement the plan, including the specific steps to be taken (e.g., temporarily relocating tenants, preparing plans and specifications, awarding contracts, and commencing repair work);
- whether any environmental problems are associated with the damage, and if so, how they will be addressed;
- the projected cost to repair and restore the damaged **Improvements**, including any available information on contractors' bids or awards;
- whether the casualty loss is covered by the **Borrower's** insurance policy, the status of any insurance claim, and an estimate of the amount and timing of the funds to be received from the insurance carrier;
- the estimated amount of additional funds that the **Borrower** will have to provide from its own resources to complete all necessary repair and restoration work, and the current availability of such funds; and
- any other relevant information pertaining to the loss event that is known to the **Servicer** and could have a material bearing on Fannie Mae's interests.

#### 414.04 Required Casualty Loss Property Inspection

The **Servicer** must inspect the **Property**, take photographs of the damage, and complete a Multifamily Catastrophic Loss Inspection (Form 4261) if:

- the casualty loss is expected to exceed the lesser of (i) \$500,000, or (ii) 20% of the **UPB** of the **Mortgage Loan** as of the date of the casualty; or
- any of the following conditions exists:
  - a default has occurred and is continuing under the **Loan Documents**;





- the combination of insurance proceeds and Borrower funds is insufficient to complete the necessary Property repairs for restoration to a condition fit for human habitation and meeting all applicable permitting requirements;
- prior to the commencement of any restoration work, the Servicer determines that, upon completion of the repair and restoration work, the Property will not be capable of generating sufficient income to cover all operating expenses, required Replacement Reserve deposits, P&I on the Mortgage Loan, and required payments on any subordinate debt secured by the Property, or will not otherwise meet a DSCR or other test required by the Loan Documents; or
- the repair and restoration work will not be completed by the earlier of (i) the Maturity Date, or (ii) within 1 year from the date of the casualty.

The Servicer may charge the Borrower for the cost of the inspection unless expressly prohibited by the Loan Documents.

An inspection by the Servicer is optional if the casualty loss is expected to be less than (i) \$500,000, or (ii) 20% of the UPB, and none of the above conditions exist. If the Servicer elects not to inspect the Property, the Servicer must confirm during the next Property inspection, and document in its Servicing File, that the repair and restoration work was satisfactorily completed. If the Servicer determines that the repair or restoration work was not satisfactorily completed, the Servicer must notify Multifamily Inspections and Multifamily Loss Mitigation) in writing, as required by Part V, Chapter 5: Surveillance.

#### **414.05** Documentation for Required Casualty Loss Property Inspections

After inspecting the Property, the Servicer must:

- retain in its Servicing File a copy of the completed Catastrophic Loss Inspection (Form 4261), and photographs of the damaged portions of the Property; and
- submit a copy of the Catastrophic Loss Inspection (Form 4261) and the photographs through the MAMP within 7 days after completing the Catastrophic Loss Inspection (Form 4261).



#### **414.06** Endorsement of Insurance Loss Draft or Check When Payable to Fannie Mae

Any insurance loss draft or check issued by the insurance carrier must be made payable to Fannie Mae in care of the **Servicer**, or as otherwise required by the mortgagee clause. Provided the **Lender Contract** contains nothing to the contrary, the **Servicer** is delegated the authority to endorse any insurance loss draft or check on Fannie Mae's behalf, as follows:

Fannie Mae

By: [Name of Servicer]

By: [Name of Servicer's Authorized Signer]

[Title of Servicer's Authorized Signer].

If any insurance loss draft or check made payable to Fannie Mae or the **Servicer** is cashed by the **Borrower** without proper endorsement by Fannie Mae or the **Servicer**, the **Servicer** must instruct the **Borrower** to send the funds to the **Servicer** within 5 Business Days. If the **Borrower** does not send the funds, the **Servicer** must contact **Multifamily Asset Management** immediately.

#### **414.07** Endorsement of Insurance Loss Draft or Check When Not Payable to Fannie Mae

If the insurance loss draft or check is payable to the **Servicer**, the **Servicer** is authorized to endorse the draft or check and apply the proceeds in accordance with this Section. The **Servicer** must also send the Insurer an Insurance Loss Payee Notice Letter (**Form 4803**) so that all future insurance loss drafts and checks will be issued to Fannie Mae in care of the **Servicer**. The **Servicer** must retain a copy of the Insurance Loss Payee Notice Letter (**Form 4803**) in its **Servicing File**.

#### **414.08** Insurance Loss Draft or Check Not Payable to Either Fannie Mae or Servicer

If the insurance loss draft or check is not made payable to either Fannie Mae or the **Servicer**, the **Servicer** must return it to the insurance carrier and request the loss draft or check be reissued in the name of Fannie Mae and sent to the **Servicer**. If the check has already been cashed by the **Borrower**, the **Servicer** must demand those funds be either paid by the **Borrower** to the **Servicer** and/or deposited in a **Custodial Account** meeting the requirements of **Part V, Chapter 3: Custodial Account Requirements**.

#### **414.09** Application of Insurance Loss Proceeds

The **Servicer** must review the **Loan Documents** to confirm no contrary requirements exist regarding the application of insurance loss



proceeds (e.g., where the [Loan Documents](#) require the noteholder to “reasonably” approve the application of insurance proceeds, where the noteholder is to apply commercially reasonable standards, or where the noteholder has the power to approve in its sole discretion).

#### **414.09A** Fannie Mae Determination Required

If any of the following conditions exist, Fannie Mae will determine, in its sole discretion, whether to require the insurance loss proceeds to be (i) applied to the [UPB](#), or (ii) used to repair and restore the [Property](#):

- a default has occurred and is continuing under the [Loan Documents](#);
- the combination of insurance proceeds and [Borrower](#) funds is insufficient to complete the necessary [Property](#) repairs for restoration to a condition fit for human habitation and meeting all applicable permitting requirements;
- prior to the commencement of any restoration work, the [Servicer](#) determines that, upon completion of the repair and restoration work, the [Property](#) will not be capable of generating sufficient income to cover all operating expenses, required [Replacement Reserve](#) deposits, [P&I](#) on the [Mortgage Loan](#), and required payments on any subordinate debt secured by the [Property](#), or will otherwise meet a [DSCR](#) or other test required by the [Loan Documents](#); or
- the repair and restoration work will not be completed by the earlier of (i) the [Maturity Date](#), or (ii) within 1 year from the date of the casualty loss.

#### **414.09B** Disposition of Insurance Loss Proceeds

Based upon the [Borrower](#)’s plan of action and the [Servicer](#)’s overall assessment, and provided none of the conditions listed in [Part V, Chapter 4: Asset Management: Loan Document Administration, Section 414.04: Required Casualty Loss Property Inspection](#) exist, the [Servicer](#) has the authority to:

- hold the proceeds to incrementally reimburse the [Borrower](#) for the cost of repairing the damage and restoring the [Property](#) to habitable condition; or
- recommend to Fannie Mae that the proceeds be applied to the [UPB](#) of the [Mortgage Loan](#) by submitting a request



through the MAMP.

#### 414.10 Property Restoration Requirements

All insurance loss proceeds will be held to reimburse the Borrower in increments for the cost of repairing the damage and restoring the Property. If the Property will be restored to habitable condition, the Servicer must:

- deposit all insurance loss proceeds in a Custodial Account meeting the requirements of Part V, Chapter 3: Custodial Account Requirements, to incrementally reimburse the Borrower for the cost of repairing the damage;
- require the Borrower to deposit, in the same Custodial Account, funds equal to the difference between (a) the Servicer's estimate of the total cost to repair and restore the Property to its pre-casualty condition, and (b) the amount of the insurance proceeds;
- for losses greater than \$75,000, prepare and have the Borrower execute the applicable Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) (Form 6615) for use with the 6000 series Loan Documents if documented before the June 2019 Loan Document publication, or Insurance Loss Proceeds Collateral Agreement (Form 6639) for use with the 4000 series Loan Documents, specifying the terms and conditions under which the funds held in the Custodial Account will be released to the Borrower (Form 6615 is not required for Mortgage Loans with Loan Documents documented after the June 2019 Loan Document publication); and
- submit a copy of any applicable Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) (Form 6615) or Insurance Loss Proceeds Collateral Agreement (Form 6639) through the MAMP.

The Servicer may waive the above requirement that the Borrower deposit additional funds into the Custodial Account if (i) the Servicer deposits all insurance loss proceeds into the Custodial Account, and (ii) determines that the Borrower, Key Principals, and Principals have sufficient funds to repair and restore the Property when the insurance loss proceeds alone are insufficient.

Within 7 days of execution, the Servicer must submit through the MAMP copies of:



- any applicable Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) (Form 6615) or Insurance Loss Proceeds Collateral Agreement (Form 6639);
- any Report of Multifamily Hazard Insurance Loss (Form 178); and
- if required and completed, a copy of the Multifamily Catastrophic Loss Inspection (Form 4261).

The Multifamily Catastrophic Loss Inspection (Form 4261) must be submitted through the MAMP within 7 days after the later of:

- the execution of any Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) (Form 6615) or Insurance Loss Proceeds Collateral Agreement (Form 6639); or
- the completion of the Multifamily Catastrophic Loss Inspection (Form 4261).

The Servicer must send to Multifamily Certification and Custody within 15 Business Days the original executed copy of any Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) (Form 6615) or Insurance Loss Proceeds Collateral Agreement (Form 6639), and retain in its Servicing File the original:

- Multifamily Catastrophic Loss Inspection (Form 4261); and
- Report of Multifamily Hazard Insurance Loss (Form 178).

#### 414.11 Commencement of Repair/Restoration Work

Before the Servicer disburses any funds to the Borrower for repair or restoration work the Servicer must:

- have any applicable executed Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) (Form 6615) or Insurance Loss Proceeds Collateral Agreement (Form 6639);
- have on deposit in a Custodial Account all insurance loss proceeds and, unless waived as provided above, sufficient Borrower funds to cover the estimated cost to complete the repair and restoration work;
- except in the case of minor casualties, have copies of all applicable building permits and other permits/authorizations



required to carry out the repair and restoration work;

- except in the case of minor casualties, review (or have a qualified professional review) and approve any plans and specifications relating to the repair and restoration work;
- obtain from the **Borrower** the identities of each principal contractor, architect, and engineer who will be involved in the repair and restoration work, and be satisfied with their qualifications (including assurance each is appropriately licensed and bonded); and
- obtain evidence of builder's risk insurance, if required, in accordance with **Part II, Chapter 5: Property and Liability Insurance, Section 501.02E: Builder's Risk Insurance**.

Any emergency work required to protect the **Property** or correct a condition threatening the health or safety of the tenants must be undertaken immediately by the **Borrower**, even if the forgoing requirements have not been complied with.

## 414.12 Disbursements

### 414.12A Prerequisites for Disbursement of Funds

Before disbursing funds, including the final disbursement, to the **Borrower** for each disbursement request, the **Servicer** must be satisfied that:

- all repair and restoration work has been completed in a good and workmanlike manner and in accordance with any applicable plans and specifications, as evidenced by submissions from the **Borrower** and, if applicable, by the **Servicer's** or a qualified professional's inspection of the completed work;
- all related invoices for items and services have been paid, unless the **Borrower** has satisfied any applicable pre-conditions of the Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) (**Form 6615**) or Insurance Loss Proceeds Collateral Agreement (**Form 6639**) for issuance of a joint check made payable to the **Borrower** and the **Person** owed funds;
- the necessary release of **Lien** or **Lien** waivers have been submitted by all contractors, and no mechanics' **Liens**, materialmen's **Liens**, or other **Liens** are outstanding that have not been acceptably bonded over; and



- the necessary release of [Lien](#) or [Lien](#) waivers have been submitted by all contractors, and no mechanics' [Liens](#), materialmen's [Liens](#), or other [Liens](#) are outstanding that have not been acceptably bonded over; and
- the [Borrower](#) is not in default under any [Loan Document](#), including the Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) ([Form 6615](#)) or Insurance Loss Proceeds Collateral Agreement ([Form 6639](#)).

#### **414.12B** Disbursing Funds

The [Servicer](#) must approve and disburse funds related to each [Borrower](#) request in accordance with the [Loan Documents](#), including any applicable Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) ([Form 6615](#)) or Insurance Loss Proceeds Collateral Agreement ([Form 6639](#)). Funds must be disbursed no more frequently than once a month, unless:

- the [Servicer](#) determines that more frequent disbursements of funds are appropriate and can be managed effectively; or
- the disbursement is equal to or greater than \$10,000, or is the final disbursement of proceeds.

#### **414.12C** Content of Disbursement Request

Each of the [Borrower](#)'s disbursement requests must be in writing and must specify, at a minimum:

- the specific repair and restoration work for which reimbursement is being sought;
- the quantity and price of all materials (grouped by type or category) or specific replacement items (e.g., appliances) purchased; and
- the cost of all contracted labor or other services.

The [Borrower](#)'s disbursement requests must be accompanied by:

- a [Borrower](#) certification that the repair and restoration work was completed in a good and workmanlike manner, in accordance with any plans and specifications previously approved by the [Servicer](#), and in compliance with all applicable laws, ordinances, rules, and regulations of any





governmental authority, agency, or instrumentality having jurisdiction over the [Property](#);

- copies of invoices and evidence of payment for all items and materials purchased and all labor and services provided, the cost of which exceeds the lesser of \$25,000 or 1% of the [UPB](#);
- a release of [Lien](#) from each contractor, subcontractor, or materialman providing services or materials, the cost of which exceeds the lesser of \$25,000 or 1% of the [UPB](#); and
- other relevant documentation required under the [Loan Documents](#), including any applicable Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) ([Form 6615](#)) or Insurance Loss Proceeds Collateral Agreement ([Form 6639](#)).

#### **414.12D** Disbursement Amount

The amount of each disbursement (other than the final disbursement) may not exceed the lesser of:

(i) an amount equal to:

- the actual cost of the repair and restoration work covered by the disbursement request, or, if the work was done under a contract or subcontract pursuant to which other work remains to be done, an amount equal to 90% of the actual cost of the repair and restoration work covered by the disbursement request (i.e., a 10% holdback is required if the work under the applicable contract or subcontract has not been completed in full); plus
- 100% of the cost of any materials used, or to be used, in connection with the repair and restoration work, if at the time of the disbursement request, title to the materials has passed to the [Borrower](#) and the materials have been installed, or are being properly stored, on the [Property](#); or

(ii) an amount equal to the difference between:

- the balance of the [Collateral Agreement Custodial Account](#) at the time of the disbursement request; and





- the estimated cost of all remaining repair and restoration work at that time of the disbursement request.

#### **414.12E** Final Disbursement; Notice to Fannie Mae

Upon satisfactory completion of all required repair and restoration work, and satisfaction of all other applicable conditions of the [Loan Documents](#), including any applicable Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) ([Form 6615](#)) or Insurance Loss Proceeds Collateral Agreement ([Form 6639](#)), the [Servicer](#) must:

- disburse all remaining funds to the [Borrower](#); and
- submit through the [MAMP](#) a final Report of Multifamily Hazard Insurance Loss ([Form 178](#)) to indicate that all work was satisfactorily completed.

#### **414.12F** Documentation in Servicing File

The [Servicer](#) must ensure that all actions taken with respect to each [Borrower](#) disbursement request are appropriately documented in its [Servicing File](#).

#### **414.13** Borrower's Failure to Diligently Pursue Repair

The [Servicer](#) must notify [Multifamily Asset Management](#) immediately if the [Borrower](#) fails to:

- proceed diligently with any necessary repair and restoration work;
- perform the work satisfactorily; or
- perform in accordance with the terms of the [Loan Documents](#), including any applicable Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) ([Form 6615](#)) or Insurance Loss Proceeds Collateral Agreement ([Form 6639](#)).

The [Servicer's](#) notice to [Multifamily Asset Management](#) must include a description of any steps that the [Servicer](#) is taking to resolve the situation.

#### **414.14** Reimbursement of Administrative Costs



If the insurance loss proceeds include funds specifically designated to defray administrative costs incurred by the mortgagee in connection with the casualty loss, the **Servicer** may reimburse itself from this designated amount for its actual, reasonable administrative costs. If no such provision is made by the insurer, the **Servicer** may not seek reimbursement for its administrative costs from the proceeds, nor may the **Servicer** seek reimbursement separately from the **Borrower**.

## **Section 415**      Casualty Losses – Non-Performing Mortgage Loans

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The **Servicer** must contact **Multifamily Special Asset Management** before performing a casualty loss assessment on a **Property** securing a **Non-Performing Mortgage Loan**. Fannie Mae will determine whether the **Servicer** should proceed with the assessment, and direct the **Servicer** accordingly. Any activity or action plans to repair or restore the **Property** must be approved by Fannie Mae. All insurance loss drafts and checks must be forwarded to Fannie Mae for endorsement and disposition.

## **Section 416**      Credit Facilities and Bulk Deliveries

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### **416.01**    General

Each **Credit Facility** and **Bulk Delivery** transaction is different, therefore the requirements in this Section may not apply to every transaction. The **Servicer** must refer to the applicable **Master Credit Facility Agreement**, **Bulk Delivery Agreement**, and other **Loan Documents** for specific requirements.

### **416.02**    Delegation of Decisions

**Credit Facility** and **Bulk Delivery** requests are delegated to the **Servicer** as described below.

#### **416.02A**    Decisions and Actions Not Delegated

Decisions and actions are not delegated to the **Servicer** when a request involves:

- amendments or changes to the **Master Credit Facility Agreement**, **Bulk Delivery Agreement**, or equivalent agreement, except for the Fannie Mae standard form (i) Amendment for Completion/Repair extensions, and (ii) changes to the monthly **Replacement Reserve** deposits;



- Supplemental Mortgage Loans or borrow-ups (future advances);
- additions, releases, or substitutions of collateral;
- revaluation and determination of the Allocable Facility Amount;
- Transfers/Assumptions;
- the interest rate conversion from variable to fixed on a SARM Loan;
- Interest Rate Hedge renewals or modifications;
- refinances;
- defeasance;
- payoffs/terminations;
- Ground Lease or operating lease modifications; or
- Property management or operator changes.

#### **416.02B** Decisions Delegated by the Delegated Transaction Form 4636 series

Decisions and actions covered by the Delegated Transaction Forms (Form 4636 series) are delegated to the Servicer as set forth in the applicable Form 4636 series. For these requests, the Servicer must submit the completed Delegated Transaction Form (Form 4636 series) through the MAMP.

#### **416.02C** Other Delegated Decisions

Decisions and actions involving the following are delegated to the Servicer to the extent delegated in this Chapter:

- Letter of Credit replacements and draws;
- Amendment to Multifamily Loan and Security Agreement (Restoration Reserve) (Form 6615) or Insurance Loss Proceeds Collateral Agreements (Form 6639);
- endorsing insurance checks;
- Completion/Repair Agreement extensions;
- changes to the monthly Replacement Reserve deposits;
- administering escrow accounts; and
- administering Collateral Agreements.

If the Servicer has any questions regarding the need for



Fannie Mae approval, the **Servicer** must contact **Multifamily Structured Asset Management** prior to proceeding.

### 416.03 Approval Requests

If Fannie Mae approval is required, the **Servicer** must submit a request through the **MAMP**. Any approval request must include the **Servicer's** recommendation, any supporting documentation (including references to the relevant sections of the governing documents), and the **Servicer's** analysis supporting its recommendation.

### 416.04 Release and Substitution Requests

To the extent permitted by the provisions of the **Master Credit Facility Agreement**, **Bulk Delivery Agreement**, and the other **Loan Documents**, **Borrowers** may have the ability to release or substitute collateral. These requests must follow the provisions of the **Loan Documents**, and are not delegated under this Section.

The **Borrower** must initiate the release/substitution process by submitting a written request to the **Servicer**. Upon receipt, the **Servicer** must submit a release/substitution request package through the **MAMP** that includes:

- the **Servicer's** summary of the **Borrower's** release/substitution request, and its recommendation regarding approval of the requested release/substitution;
- any waiver requests and the **Servicer's** recommendation for approval of each waiver;
- when the **Borrower** expects the release/substitution to close;
- whether the **Property** meets all conditions to release/substitute and compliance tests (e.g., **LTV**, **DSCR**, geographic/asset concentration) stipulated in the **Master Credit Facility Agreement**, **Bulk Delivery Agreement**, and other **Loan Documents**;
- for a **Credit Facility**, the release price and calculations (calculated according to the terms of the **Master Credit Facility Agreement** and other **Loan Documents**);
- for a **Credit Facility**, the remaining **Allocable Facility Amount** balance of the facility and each property after the release;
- the amount of the release/substitution fees associated with the transaction;



- whether a prepayment or advance of funds is expected to occur in connection with the transaction;
- the Structured Facilities Monitoring Spreadsheet (Form 4802) showing the Mortgage Loan level and collateral level data for the Structured Transaction both before and after the release/substitution occurs;
- third-party reports; and
- any other items required by the Loan Documents.

If a Letter of Credit or cash collateral is required as part of the request, the Servicer must enter the Letter of Credit or cash collateral information in MSFMS. Any Letter of Credit must meet the requirements of Part I, Chapter 2: Mortgage Loan, Section 204: Letters of Credit. Original Letters of Credit must be sent to Multifamily Structured Acquisitions.

If the request is approved, the Servicer must:

- submit its payoff calculations to Multifamily Structured Acquisitions;
- release the collateral from the MSFMS system; and
- if necessary, release, update, and verify any interest rate hedges associated with the transaction in MSFMS.

#### **416.05** Borrow-Up (Future Advance) Requests

To the extent permitted by the Master Credit Facility Agreement, Bulk Delivery Agreement, and the other Loan Documents, the Borrower may have the ability to obtain a Future Advance. These requests must follow the requirements of the applicable Loan Documents, and approval is not delegated to the Servicer.

The Borrower must initiate the Borrow-Up process by submitting a written request to the Servicer. Upon receipt, the Servicer must submit a Borrow-Up request package through the MAMP that includes:

- the Servicer's summary of the Borrower's Borrow-Up request and its recommendation for approval;
- any waiver requests and the Servicer's recommendation for approval of each waiver;
- the amount of the Borrow-Up and the supporting underwriting spreadsheets and calculations (calculated per



the terms of the [Master Credit Facility Agreement](#) and other [Loan Documents](#));

- when the [Borrower](#) expects the Borrow-Up to close;
- whether the [Property](#) meets all conditions and compliance tests (e.g., [LTV](#), [DSCR](#), geographic/asset concentration) for a Borrow-Up per the applicable [Loan Documents](#);
- a quote sheet;
- a Sources and Uses statement;
- any [Interest Rate Hedge](#) requirements;
- for a [Credit Facility](#), the remaining [Allocable Facility Amount](#) balance of the [Credit Facility](#) and each [Property](#) after the Borrow-Up;
- itemized Borrow-Up fees associated with the transaction;
- the Structured Facilities Monitoring Spreadsheet ([Form 4802](#)) showing the [Mortgage Loan](#) level and collateral level data for the Structured Transaction both before and after the release/substitution occurs;
- third party reports; and
- any other items required by the [Loan Documents](#).

#### **416.06** Facility Revaluations

Revaluations of [Credit Facilities](#) and [Bulk Deliveries](#) occur as required by the [Master Credit Facility Agreement](#) and [Bulk Delivery Agreement](#). [Servicers](#) must send recommended property cap rates and values along with supporting market information through the [MAMP](#). Upon completion of Fannie Mae's review, the [Servicer](#) will be notified of the final cap rate determination and valuation. The [Servicer](#) must promptly notify the [Borrower](#) of the revised cap rates, [Property](#) values, [Allocable Facility Amounts](#), [LTV](#), and the failure to meet any compliance tests (if applicable). The [Servicer](#) must attach a copy of this [Borrower](#) correspondence to the request in the [MAMP](#).

#### **416.07** Supplemental Mortgage Loans Not Permitted

[Supplemental Mortgage Loans](#) on [Properties](#) that are part of a [Credit Facility](#) or a [Bulk Delivery](#) are not permitted unless expressly authorized under the [Master Credit Facility Agreement](#), [Bulk Delivery Agreement](#), and other [Loan Documents](#). The [Servicer](#) must contact [Multifamily Structured Asset Management](#) before underwriting a



## Supplemental Mortgage Loan.

### 416.08 Additional Information

For any issue not covered in this Section, or if the [Servicer](#) requires a more detailed explanation, contact [Multifamily Structured Asset Management](#).

## Section 417 Seniors Housing Properties

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### 417.01 General

The requirements in this Section may not apply to every [Seniors Housing Mortgage Loan](#). The [Servicer](#) must refer to the [Loan Documents](#) for specific requirements.

### 417.02 Decisions and Actions Delegated and Not Delegated

Decisions and actions covered by the [Delegated Transaction Form \(Form 4636 series\)](#) are delegated to the [Servicer](#) as set forth in the applicable [Form 4636 series](#) or the [Guide](#). For these requests, the [Servicer](#) must submit the completed applicable [Form 4636 series](#) through the [MAMP](#). Decisions and actions for [Seniors Housing Mortgage Loans](#) regarding the following are not delegated to the [Servicer](#):

- [Seniors Housing](#) expansions/conversions, including constructing additional units, substantial alterations, [Seniors Housing Major Renovations](#), and [Seniors Housing Minor Renovations](#);
- changes in the [Seniors Housing](#) operator;
- changes in [Property](#) management or management agreements;
- changes in licensing (**Note:** All licensing changes require an Opinion of Borrower's Counsel on Origination of Mortgage Loan (Seniors Housing Licensing) ([Form 6450.SRS](#)) confirming that all licensing requirements have been met);
- [Seniors Housing](#) operator [Leases](#); and
- master leases.

If the [Servicer](#) has any questions regarding the need for Fannie Mae approval, the [Servicer](#) must contact [Multifamily Seniors](#)





Housing Property Asset Management before proceeding.

#### **417.03** Approval Requests

The **Servicer** must refer to the **Loan Documents** and this Section to determine whether Fannie Mae approval is required for a particular request. If Fannie Mae approval is required, the **Servicer** must submit a request through the **MAMP**. Any approval request must include the **Servicer's** recommendation, any supporting documentation (including references to the relevant sections of the governing documents), and the **Servicer's** analysis supporting its recommendation.

#### **417.04** Seniors Housing Expansion/Conversion Requests

Unless expressly permitted by the **Loan Documents**, requests by the **Borrower** for the construction of additional units, renovation, or expansion of a **Seniors Housing Property**, or a change in the overall percentage of one **Seniors Housing** type of unit (e.g., **Independent Living**, **Assisted Living**, or **Alzheimer's/Dementia Care**) into another are not delegated to the **Servicer**. The **Borrower** must request approval from the **Servicer** and Fannie Mae before proceeding, and Fannie Mae will consider these requests under the following parameters, conditions, and requirements:

##### **417.04A** Permitted Purpose

To allow for the construction of additional units on existing land, or the renovation and/or repositioning of existing units:

- a “**Seniors Housing Major Renovation**” is any physical improvement costing in excess of (i) \$20,000/unit, or (ii) \$3 million in total project costs; and
- a “**Seniors Housing Minor Renovation**” is any physical improvement that is not a **Seniors Housing Major Renovation**, but which increases the number of units, or converts one type of unit into another, unless expressly permitted by the **Loan Documents**.

##### **417.04B** Submission Requirements

Upon receipt of a **Borrower Seniors Housing Expansion/Conversion Request**, the **Servicer** must submit a written request through the **MAMP**, and include the following:





- Sponsor name and experience in operating seniors housing properties;
- Mortgage Loan performance;
- financial performance (including NCF and UPB history, and DSCR and LTV trends);
- pro forma financial statements;
- sources/uses of funds statement;
- project budget, scope, and plans;
- market study;
- construction contract and timeline;
- Servicer's monitoring plan;
- licensure issues;
- insurance; and
- general contractor and major subcontractors.

Fannie Mae will review the completed request, and approve or decline the request in its sole discretion.

#### **417.04C** Requirements and Monitoring

For a Seniors Housing Expansion/Conversion Request approved by Fannie Mae, the following requirements will apply:

- Escrow:
  - the Borrower must escrow 25% of the estimated construction costs with the Servicer, who will administer the funds through a standard construction draw process; and
  - the Borrower must demonstrate to the Servicer's satisfaction that it has sufficient liquid assets to complete the construction;
- Minimum DSCR during the expansion/conversion period cannot fall below 1.15x;
- Completion of construction must occur no later than 18 months from the date of commencement;
- Construction monitoring requirements will be set forth in the approval letter;
- Fannie Mae will charge a construction monitoring fee which



does not cover the expenses associated with third-party inspections;

- Completion Guaranty (Form 6018, Form 6632, or Form 6633) and, if determined applicable by Fannie Mae, an Agreement and Assignment Regarding General Contractor's Contract (Form 6473), and an Omnibus Assignment of Contracts, Plans, Permits, and Approvals (Form 6473), will be required;
- Fannie Mae will charge a change in use fee, and the Servicer may charge additional fees at its discretion, subject to approval by Fannie Mae;
- The Borrower must reimburse all legal costs incurred by Fannie Mae; and
- A fixed-price general construction contract provided by a general contractor, together with a payment and performance bond issued by an acceptable surety, will be required.

#### **417.04D** Construction Completion Requirements

Within 60 days of completing any Seniors Housing Major Renovation or Seniors Housing Minor Renovation, the Borrower must deliver to the Servicer, and the Servicer must provide to Fannie Mae, the following:

- title endorsement to the existing mortgagee title policy, confirming that no mechanics' Liens, materialmen's Liens, or other Liens exist that have not been acceptably bonded over;
- final lien waivers from all contractors, architects, subcontractors, and material suppliers;
- copies of updated or newly issued certificates of occupancy;
- renewed licenses;
- confirmation in the form of an Opinion of Borrower's Counsel on Origination of Mortgage Loan (Seniors Housing Licensing) (Form 6450.SRS) that all licensing requirements have been met;
- certificate from the Borrower, architect, and contractor certifying to the Servicer, for the benefit of Fannie Mae, that the improvements:



- are completed in accordance with the plans and specifications approved by Fannie Mae; and
- meet the local zoning and planning restrictions, and all other governmental requirements;
- final inspection of completed [Improvements](#);
- updated certified operating statement and rent roll for the [Seniors Housing Property](#); and
- a survey showing any new [Improvements](#) on the [Seniors Housing Property](#).

#### **417.04E** Request Changes in Unit Count/Mix in the MAMP

Within 60 days of completion of any [Seniors Housing Major Renovation](#) or [Seniors Housing Minor Renovation](#), the [Servicer](#) must request any applicable change in unit count and/or unit mix (IL, AL, ALZ) in the [MAMP](#) resulting from the renovation.

## **Section 418** Credit Enhancement Mortgage Loans and Multifamily Affordable Housing Properties

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### **418.01** Bond Transactions and Credit Enhancement Mortgage Loans

For any [Credit Enhancement Mortgage Loan](#) where Fannie Mae is providing credit enhancement for tax-exempt multifamily housing [Bonds](#), the [Borrower](#) must provide the [Servicer](#) with a copy of the compliance monitoring statement required under the Bond Documents. If the [Borrower's](#) statement reflects non-compliance with the low- and moderate-income tenant occupancy requirements set forth in the [Affordable Regulatory Agreement](#), or if the [Borrower](#) fails to provide the statement to the [Servicer](#), the [Servicer](#) must notify [Multifamily Asset Management](#), and retain the compliance monitoring statement in its [Servicing File](#).

### **418.02** Compliance Issues Relative to Bond Credit Enhancement Transactions

The [Servicer](#) must monitor the [Interest Reserve Requirement](#), if any, under the Bond Trust Indenture with respect to each [Credit Enhancement Mortgage Loan](#).

The [Servicer](#) must monitor the rating of the institution in which the accounts under any Cash Management, Security, Pledge, and Assignment Agreement are held, and must require the [Borrower](#) to



move the accounts if the rating no longer meets Fannie Mae's requirements as provided in [Part V, Chapter 3: Custodial Account Requirements](#).

### **418.03** Monitoring Compliance; Notification of Noncompliance

#### **418.03A** Affordable Regulatory Agreement

At least once in each calendar year (and more often if directed by Fannie Mae), the [Servicer](#) must obtain a [Borrower](#) certification that the [Property](#) is in full compliance with:

- the rules qualifying the interest on the [Bonds](#) for exclusion from gross income for federal income tax purposes pursuant to the Internal Revenue Code; and
- the requirements of the [Affordable Regulatory Agreement](#).

The [Servicer](#) must review the [Borrower](#) certificate, and if the [Property](#) does not comply with all applicable regulatory requirements, the [Servicer](#) must immediately notify [Multifamily Asset Management](#). Neither Fannie Mae nor the [Servicer](#) is responsible for determining or ensuring the [Borrower's](#) compliance under the [Affordable Regulatory Agreement](#).

#### **418.03B** Default Notice for Failure to Comply with the Bond Documents

The [Servicer](#) must promptly notify [Multifamily Asset Management](#), the [Borrower](#), the [Bond Trustee](#), and the [Issuer](#) in writing of any default by a [Borrower](#) with any provision of any [Loan Document](#), [Reimbursement Agreement](#), [Security Agreement](#), the [Affordable Regulatory Agreement](#), or other [Loan Document](#), [Credit Enhancement Document](#), or [Bond Document](#).

The [Servicer](#) must promptly forward to [Multifamily Asset Management](#) copies of any notices received from a [Borrower](#), [Bond Trustee](#), [Issuer](#), or any other party regarding any default by a [Borrower](#), and shall maintain ongoing contact with Fannie Mae regarding the status of the [Credit Enhancement Mortgage Loan](#) by submitting a [Non-Monetary Default Borrower Request](#) in the [MAMP](#).

### **418.04** Multifamily Affordable Housing (MAH) Properties

For any Multifamily Affordable Housing Property, the [The Servicer](#) must collect ~~from the Borrower~~ annual compliance documentation in the form of ~~the annual recertification of the~~



- for an MAH Property with Sponsor-Initiated Affordability, certifications from the Borrower and Administering Agent of compliance with the Sponsor-Initiated Affordability Agreement; or
- for any other MAH Property, the annual recertification of the Property's compliance with the Affordable Regulatory Agreement from the agency or entity that imposed any applicable rent or occupancy restrictions or, if not available, an explanation of why it is not available.

The Property Servicer's compliance with the Affordable Regulatory Agreement from the agency or entity that imposed any applicable rent or occupancy restrictions or, if not available, an explanation of why it is not available. Additionally, for any MAH Property subject to Low-Income Housing Tax Credits, the Servicer must collect annual copies of the tax and other compliance forms specified in Part III, Chapter 7: Multifamily Affordable Housing Properties, and must immediately submit a Non-Monetary Default Borrower Request in the MAMP to notify Multifamily Asset Management if this documentation reveals any event of default or noncompliance with the applicable:

- Sponsor-Initiated Affordability Agreement; or
- Affordable Regulatory Agreement.

The Servicer must retain the annual compliance documentation in its Servicing File.

#### 418.05 Low-Income Housing Tax Credits

If the Property is subject to a Low-Income Housing Tax Credit allocation, the Servicer will must obtain, at least once in each calendar year (and more often if directed by Fannie Mae), the following:

- Borrower certifications of the Property's compliance with the requirements of the Internal Revenue Code regarding Low-Income Housing Tax Credits. If the Borrower indicated that the Property does not comply with all applicable regulatory requirements, the Servicer must immediately notify Multifamily Asset Management; and
- copies of the tax and other compliance forms specified in Part III, Chapter 7: Multifamily Affordable Housing Properties; and



- Borrower certifications of the Property's compliance with the requirements of the Internal Revenue Code regarding Low-Income Housing Tax Credits; and
- if the Low-Income Housing Tax Credits have not yet been syndicated, monthly reports from the Borrower detailing the Borrower's progress in syndicating the tax credit allocation until the syndication is completed.

If the Borrower indicated that the Property does not comply with all applicable regulatory requirements, the Servicer must immediately submit a Non-Monetary Default Borrower Request in the MAMP. Neither Fannie Mae nor the Servicer is responsible for determining or ensuring the Borrower's compliance with Low-Income Housing Tax Credit requirements. The Servicer also must comply with the information requirements of Part III, Chapter 7: Multifamily Affordable Housing Properties.

#### **418.06** Enhanced Resident Services

The Borrower must annually recertify the Property and submit each recertification to the Servicer within 75 days following the end of each Loan Year. The Servicer must collect the initial certification and each recertification in the Servicing File. For any recertification failure, the Servicer must promptly notify Fannie Mae through the MAMP, or such other method indicated by Fannie Mae. Additionally, the Servicer must promptly submit a Non-Monetary Default Borrower Request in the MAMP if the Property later achieves recertification. After recertification, the Servicer must then resume annual compliance monitoring at the end of each subsequent Loan Year.

#### **418.07** HAP Contract Approval and Releasing Restabilization Reserve

The Servicer is delegated the authority to:

- approve renewal of the HAP Contract during the Mortgage Loan term; and
- waive any Loan Document provision requiring the HAP Contract to be fully funded by HUD through the Mortgage Loan Maturity Date.

The Servicer must submit through the MAMP a copy of the renewed HAP Contract, and retain a copy in the Servicing File, together with any Borrower request for release of the Restabilization Reserve.



Most disbursements from a Restabilization Reserve require Fannie Mae's approval. The **Servicer** is delegated the authority to approve, without Fannie Mae's consent, a **Borrower** request for a final disbursement, provided:

- the **Servicer** has received written evidence that the **HAP** contract has been extended by **HUD** through the **Maturity Date** with no material changes to its terms;
- no default has occurred and is continuing under the **Loan Documents**; and
- the **Loan Documents** explicitly allow a final disbursement under these conditions.

## **Section 419** MH Communities with Manufactured Housing Site Lease Protections for Tenants

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A **Mortgage Loan** secured by an **MH Community** with **MH Site Lease** protections requires additional monitoring. The **Loan Documents** require the **Borrower** to annually provide:

- a certified copy of the current residential **MH Site Lease** form;
- copies of any actual **MH Site Lease** requested by **Lender**; and
- a certification of the actual percentage of **MH Site Leases** that include all of the required tenant protections, and that no material changes have been made to the **MH Community's** rules and regulations or to the **MH Site Lease** form.

The **Servicer** must:

- confirm the **Borrower's** on-going compliance with the **Loan Documents**;
- annually audit at least one-quarter of the specified percentage of **MH Site Leases** (i.e., 25% or 50%) to ensure all of the required tenant **MH Site Lease** protections are included;
- retain the review of the **Borrower's** certification and audit results in the **Servicing File**; and
- notify **Multifamily Loss Mitigation** if the **Borrower** fails to certify compliance, or the **MH Site Lease** audit discloses





potential non-compliance.

## Section 420 Single Asset Entity Conversion

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If the [Loan Documents](#) require the [Borrower](#) to convert into a single asset entity that complies with [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.01: Single-Asset Entity](#) by a certain date, the [Servicer](#) is delegated the authority to:

- grant a one-time extension of the date by up to 90 days;
- determine whether the extension requires an amendment to the [Multifamily Loan Agreement](#); and
- document it in any form that the [Servicer](#) deems legally enforceable.

## Section 421 Loan Document Amendments

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Provided the change does not violate the [Disclosure Documents](#) or the [Fannie Mae Master Trust Agreement](#), the [Servicer](#) is delegated the authority to modify the [Loan Documents](#) for a [Portfolio Mortgage Loan](#) to:

- align with the approved terms for a [Supplemental Mortgage Loan](#); or
- cross-default and/or cross-collateralize the [Portfolio Mortgage Loan](#) with a subsequent [Mortgage Loan](#).

This delegated authority includes executing all [Loan Document](#) amendments related to:

- a subordinate lien, including any [Mortgage Loan](#) modification for a [Supplemental Mortgage Loan](#) with a confirmed [Commitment](#);
- cross-collateralizing and/or cross-defaulting a [Pre-Existing Mortgage Loan](#) with a [Supplemental Mortgage Loan](#) with a confirmed [Commitment](#); and
- cross-collateralizing and/or cross-defaulting a first [Lien Mortgage Loan](#) with another first [Lien Mortgage Loan](#) (e.g., for a phased property), provided that cross-collateralization and cross-default were contemplated in the [Loan Documents](#) for the [Portfolio Mortgage Loan](#) and there is a confirmed [Commitment](#) for the second first [Lien Mortgage](#)





Loan.

## Section 422 Maturing Mortgage Loans

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### 422.01 Written Policy

The **Servicer** must establish a written policy for maturing **Mortgage Loans**, including:

- overall monitoring responsibilities;
- criteria for handoffs between functional groups (e.g., **Special Asset Management**, **Special Credits**, etc.);
- Fannie Mae reporting;
- sending **Borrower** maturity notification letters; and
- determining the **Mortgage Loan's** refinance eligibility.

### 422.02 Refinance Eligibility

On a monthly basis, beginning at least 24 months before each **Mortgage Loan's Maturity Date**, the **Servicer** must evaluate the **Property's** operating performance to determine the likelihood that the **Mortgage Loan UPB** can be refinanced based on the current cap rate, and the **DSCR** and **NCF** from the **Property's** most recent annual financial statement.

Participants from the **Servicer's** underwriting, asset management, portfolio management, and finance teams must coordinate to categorize each **Mortgage Loan** as either:

- “Meets Criteria” = the **Mortgage Loan** qualifies for refinancing based on the currently published underwriting criteria of Fannie Mae or a third party; or
- “Does Not Meet Criteria” = the **Mortgage Loan** does not qualify for refinancing based on the currently published underwriting criteria of Fannie Mae or a third party.

For each **Mortgage Loan** categorized as “Does Not Meet Criteria”, the **Servicer** must:

- review the **Property's** quarterly operating statements and analyze the operating expenses (especially repairs & maintenance and capital expenses) to assess whether the **Borrower** is prudently managing the **Property**; and



- work with the **Borrower** and Fannie Mae to ensure the **Borrower** has a reasonable payoff plan.

### 422.03 Borrower Communications

The **Servicer** must send the following maturity notification letters to the **Borrower**:

- 18 months before the **Mortgage Loan Maturity Date**, send the first maturity notification letter notifying the **Borrower** of the upcoming **Maturity Date** (18 Month Notice to Borrower – Choice Refinance Loans (Form 4217)).
- 12 months before the **Mortgage Loan Maturity Date**, send the applicable second maturity notification letter (12 Month Notice to Borrower Marketing Oriented – Choice Refinance Loans (Form 4218) or 12 Month Notice to Borrower – In Place Loans (Form 4219)):
  - notifying the **Borrower** of the upcoming **Maturity Date**;
  - providing **Servicer** contact information; and
  - requesting a detailed payoff plan.
- 6 months before the **Mortgage Loan Maturity Date**, send the 6 Month Notice to Borrower – In Place Loans (Form 4220):
  - notifying the **Borrower** of the upcoming **Maturity Date**;
  - requesting proof of a payoff plan (e.g., a commitment letter from another lender or sale contract); and
  - advising the **Borrower** that the **Mortgage Loan** will be in default if not paid off or refinanced.

Within 6 months of the **Maturity Date**, the **Servicer** must aggressively pursue a maturity solution for any **Mortgage Loan** that “Does Not Meet Criteria” until the **Borrower** provides written proof of a payoff plan, which may include a certified escrow letter, contact information for the new lender with appropriate follow-up by the **Servicer**, or other reasonable evidence.

### 422.04 Fannie Mae Communications

On the first **Business Day** of each month, the **Servicer** must submit a Maturing Loan Report using the mandated template to



Multifamily Maturity Management with information on each Mortgage Loan maturing within the next 24 months (or advising that no Mortgage Loans are maturing within the next 24 months), and categorizing each as “Meets Criteria” or “Does Not Meet Criteria” in the Performance Rating column. The Servicer must also update the Maturing Loan Report as new information becomes available with each monthly submission.

The comments section of the Maturing Loan Report must include, at a minimum:

- a report of discussions with the Borrower (e.g., potential new lender, term of new loan, proof of payoff plan received);
- the anticipated payoff date; and
- whether the Mortgage Loan is likely or not to refinance, and the rationale.

All other Fannie Mae notices related to maturing Mortgage Loans, including default notices, must be sent to Multifamily Maturity Management.



## GLOSSARY

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### ■ **Administering Agent**

Third-party compliance monitoring company.

### ■ **Affordable Regulatory Agreement**

Regulatory, land use, extended use, or similar agreement or recorded restriction limiting rents, imposing maximum income restrictions on tenants, or placing other affordability restrictions on the use or occupancy of the Property (whether imposed by a government entity or self-imposed by a Borrower per the Sponsor-Initiated Affordability Agreement (Form 6490)).

### ■ **~~Housing Assistance Payment~~ HAP**

~~Housing assistance payment provided to HUD project-based Section 8 rental subsidy in the form of a Borrower by Housing Assistant Payment contract. HUD in connection with a HUD Section 8 Property.~~

#### **Synonyms**

~~HAP~~ Housing Assistance Payment

### ■ **HUD Use Agreement**

Contract between HUD and the Borrower identifying Property use restrictions and default remedies for HUD programs such as Housing Assistance Payments and Rental Assistance Demonstration.

### ■ **LIHTC Income Averaging**

Internal Revenue Code Section 42 election allowing LIHTC property owners to rent units to households earning up to 80% of AMI, provided

- a minimum of 40% of the residential units are both rent-restricted and occupied by households with a maximum income up to an average of 60% of AMI, and



- the unit's rents are limited to 30% of the qualifying income level.

For example, for a 30% AMI unit, the maximum rent that may be charged to a household is 30% of AMI.

## ■ **Preservation**

Renewal or continuation of rent, income and/or occupancy restrictions on multifamily rental housing eligible as an MAH Property, but

- is potentially at risk of being lost from the affordable housing inventory through conversion to market-rate housing, and
- is not receiving new LIHTCs.

## ■ **Restricted Value**

Appraised Value assuming a Property's Affordable Regulatory Agreement is in effect.

## ■ **Sponsor-Initiated Affordability**

Voluntary rent and income restrictions recorded against the Property by the Borrower to preserve or create multifamily affordable housing.

## ■ **Unrestricted Value**

Appraised Value assuming a Property's Affordable Regulatory Agreement is not in effect.



## ~~703.02D~~ ~~Restabilization Reserve~~

### ~~Requirements~~

~~You must establish a Restabilization Reserve for an MAH Property that has a HAP contract if the HAP contract term (disregarding any annual or other incremental government appropriation conditions) expires before the Mortgage Loan Maturity Date.~~

~~The Restabilization Reserve must:~~

- ~~■ equal the monthly P&I on the Mortgage Loan, multiplied by the greater of
  - ~~● 6 months, or~~
  - ~~● the lease-up period determined by the market study per [Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 703.02C: Market Study](#); and~~~~
- ~~■ remain in place until
  - ~~● the Property achieves underwritten occupancy for 90 days at market rate rents, or~~
  - ~~● the HAP contract is renewed and expires after the Mortgage Loan Maturity Date.~~~~



## **711.04 Reserving FHA Units**

### **Operating Procedures**

Before the Commitment Date you must perform the following steps to reserve units for each Property to be financed with an FHA Risk Sharing Mortgage Loan.

**Step 1:** You must send the Deal Team a written request to reserve units that includes

- a cover letter, and
- the Fannie Mae/FHA Pre-Application for a Reservation of Risk Sharing Units (Form 4670).

**Step 2:** You must obtain Fannie Mae's written confirmation of the reservation of units and the proposed Mortgage Loan amount.

The unit reservation will be valid for 120 days (except for FHA Risk Sharing with a Forward Commitment where the unit reservation is valid for the period specified in the Forward Commitment).

**Step 3:** Before the Commitment Date, you must obtain Fannie Mae's written approval, including any

- variance in the number of units, or
- change in the Mortgage Loan amount referenced in the initial reservation letter.