



Fannie Mae®

Multifamily Selling and Servicing Guide

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Chapter 3

Borrower, Guarantor, Key Principals, and Principals

Section 301

Generally

Requirements

You must:

- perform a risk assessment of the Borrower, Guarantor, Key Principals, and Principals based solely on objective credit standards;
- for any Sponsor, Key Principal, Guarantor, or Person who owns a Controlling Interest in the Borrower, Key Principal, or Guarantor, search the internet for
 - any negative press,
 - current or prior lawsuits, and/or
 - fair housing violations or other sanctions;
- ensure all:
 - [Potential Red Flags for Mortgage Fraud and Other Suspicious Activity](#) were evaluated; and
 - unresolved red flags were reported per [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 310: Compliance](#); and
- document all due diligence findings in the Transaction Approval Memo.

Prohibited practices include:

- basing the risk assessment on any characteristic protected by any fair housing or fair lending law, including
 - race,
 - color,
 - religion,
 - sex,
 - handicap,
 - familial status, or
 - national origin of the prospective
 - Borrowers,



- Guarantors,
- Key Principals,
- Principals,
- Property occupants, or
- residents of the Property's neighborhood; or

- using
 - unsupported assumptions,
 - personal opinions, or
 - unsupported perceptions.

You must:

- complete a credit review by analyzing information about the Borrower's, Key Principals', and Guarantors'
 - organizational structure,
 - multifamily business experience and qualifications,
 - general credit history, and
 - current and prospective financial condition; and
- ensure the financial strength, experience, qualifications, and credit history of the Borrower, Key Principals, and Guarantors support the transaction's
 - size,
 - complexity,
 - structure, and
 - risk.

Section 302 Borrower Organizational Structure

302.01 Single-Asset Entity

Requirements

You must ensure:

- the Borrower is a domestic single-asset entity formed for the sole purpose of owning the Property;



- if the Borrower is ultimately owned by foreign persons or entities, it has at least 1 domestic tier of ownership; and
- you review
 - the Borrower's complete formation documents, and
 - all amendments or restatements.

Guidance

As you analyze the Borrower and its organizational documents to confirm that it has been a single-asset entity since formation, 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?
- 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 no direct or indirect equity interest in the Borrower is 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 Borrower has no more than 10 co-tenants;
- no co-tenant is an individual; and
- 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](#);
 - is underwritten as a stand-alone Borrower;
 - complies with [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 303: Key Principals, Principals, and Guarantors](#); and
 - 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; and
- 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 per [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 311: Execution of Non-Recourse Guaranty](#), a Key Principal from each Co-Tenant Borrower must become a Guarantor and execute either a Non-Recourse Guaranty or Payment Guaranty.

302.03 Joint and Several Borrowers with Multiple Properties

Requirements

If a Mortgage Loan not in a Credit Facility is secured by multiple Properties and any Property is owned by a different Borrower, you must require each Borrower to:

- execute a single set of Loan Documents with joint and several liability for the Mortgage Loan;
- comply with the “single purpose entity” requirements per Modifications to Multifamily Loan and Security Agreement (Co-Borrowers) ([Form 6274](#));
- be owned, directly or indirectly, by the same Persons having the same percentage ownership interests;
- be Controlled by the same Sponsor or Key Principal;
- execute [Form 6274](#), restricting Property Transfer/Assumption or release during the Mortgage Loan term;
- execute an acceptable Contribution Agreement complying with [Form 6274](#); and
- if separate Security Instruments are recorded to encumber Properties in different counties, execute separate Modifications to Security Instrument (Co-Borrowers) ([Form 6322](#)) for each Security Instrument.

Each Property securing the Mortgage Loan must:

- be in the same State; and
- comply with [Part II, Chapter 1: Attributes and Characteristics, Section 102.01: Single Borrower Ownership](#).

Section 303 Key Principals, Principals, and Guarantors

303.01 Generally



☑ Requirements

For every Mortgage Loan, you must:

- identify and underwrite the Sponsor, any Guarantor, and all Key Principals and Principals of the Borrower;
- require the Borrower to disclose any foreign Persons whose direct or indirect ownership interest in the Borrower, in the aggregate, is 10% or greater; and
- ensure 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 legal consideration to enter into the Guaranty.

You must:

- not deliver a Mortgage Loan with
 - undisclosed Principals, or
 - a Blocked Person as a
 - Borrower,
 - Guarantor,
 - Key Principal, or
 - Principal;
- review the complete, unredacted organizational documents, and any amendments and restatements;
- comply with [Part III, Chapter 15: Mezzanine Financing and Preferred Equity, Section 1502: Preferred Equity](#), if the Borrower's organizational structure includes any:
 - Structured Common Equity;
 - Hard Pay Preferred Equity;
 - Mandatory Pay Preferred Equity; or
 - Soft Pay Preferred Equity.

➔ Guidance

You should refer to the Equity Checklist ([Form 6441](#)) for additional



information on Borrower ownership structures with:

- Structured Common Equity;
- Hard Pay Preferred Equity;
- Mandatory Pay Preferred Equity; and
- Soft Pay Preferred Equity.

Requirements

You must identify:

- as a Principal any Person required per the Equity Checklist (Form 6441); and
- Principals based on the aggregate of all direct and indirect ownership interests in the Borrower held per the following table.

| If the Borrower (or the Person owning an interest in the Borrower) is a... | Then a Principal is... |
|--|--|
| General Partnership or Joint Venture | any general partner or joint venturer. |
| Limited Partnership | <ul style="list-style-type: none"> • all general partners; • any Person who owns, directly or indirectly, an aggregate 25% or more limited partnership interest in the Borrower through any single limited partner; and • any Person who owns, directly or indirectly, an aggregate 25% or more limited partnership interest in the Borrower through multiple limited partners. |
| Privately-Held Corporation | any Person who owns 25% or more of the voting stock in the Borrower. |
| Limited Liability Company | <ul style="list-style-type: none"> • all non-member managers or member-managers; • any Person who owns, directly or indirectly, an aggregate 25% or more membership interest in the Borrower through any single member; and • any Person who owns, directly or indirectly, an aggregate 25% or more membership interest in the Borrower through multiple members. |



| If the Borrower (or the Person owning an interest in the Borrower) is a... | Then a Principal is... |
|---|---|
| Co-Tenant Borrower | any Person who owns, directly or indirectly, a 25% or more ownership interest in each co-tenant. |
| Trust Borrower (other than a Land Trust) | <ul style="list-style-type: none"> • the grantor (if the trust is a revocable trust or if the grantor or settlor has retained powers); • any trustee; and • any Person who has a 25% or more beneficial interest in the trust. |
| Trust owning, directly or indirectly, an aggregate 25% or more interest in the Borrower | <ul style="list-style-type: none"> • the grantor (if the trust is a revocable trust or if the grantor or settlor has retained powers); • any trustee; and • any Person who owns an aggregate 25% or more direct or indirect interest in the Borrower, including their beneficial ownership in the trust. |
| Land Trust | any Person who has <ul style="list-style-type: none"> • the power of direction, and • a 25% or more beneficial ownership interest in the land trust. |

Guidance

For example: Borrower ABC Apartments, LLC has the following ownership structure:

| Equity Owner | Role | Direct Ownership % in Borrower | Member Equity Owner and % Interest | Aggregate Indirect Ownership % in Borrower |
|------------------|---------------------|--------------------------------|------------------------------------|--|
| ABC Reality, LLC | Managing Member | 1% | John Doe - 100% | 1% |
| Member A, LLC | Non-managing Member | 19.80% | Bob Smith - 50% | 9.9% |
| | | | Others - 50% | 9.9% |
| Member B, LLC | Non-managing Member | 19.80% | Bob Smith - 50% | 9.9% |
| | | | Others - 50% | 9.9% |



| Equity Owner | Role | Direct Ownership % in Borrower | Member Equity Owner and % Interest | Aggregate Indirect Ownership % in Borrower |
|---------------|---------------------|--------------------------------|------------------------------------|--|
| Member C, LLC | Non-managing Member | 19.80% | Bob Smith - 20% | 3.96% |
| | | | XYZ Owner, LP - 80% | 15.84% |
| Member D, LLC | Non-managing Member | 19.80% | Bob Smith - 50% | 9.9% |
| | | | Sally White - 50% | 9.9% |
| Member E, LLC | Non-managing Member | 19.80% | Bob Smith - 50% | 9.9% |
| | | | Others - 50% | 9.9% |

In addition, the ownership interest of XYZ Owner, LP is:

| Equity Owner | Role | Direct Ownership % in XYZ Owner, LP | Aggregate Indirect Ownership % in Borrower |
|-------------------|-----------------|-------------------------------------|--|
| 987 Investor, LLC | General Partner | 1% | 0.16% |
| Sally White | Limited Partner | 99% | 15.68% |

You must identify:

- Bob Smith as a Principal of ABC Realty based on his aggregate 43.56% indirect ownership interest in the Borrower; and
- Sally White as a Principal of ABC Realty based on her aggregate 25.58% indirect ownership interest in the Borrower.

It is immaterial that:

- neither Bob Smith nor Sally White has any direct ownership interest in the Borrower or the managing member of the Borrower; and
- none of the non-managing members of the Borrower owns greater than the 25% direct interest in the Borrower that would qualify for being



identified as a Principal.

303.02 Entity Review

➔ Guidance

When you review an entity, consider the following questions:

- If it is an existing entity (e.g., a corporation, limited liability company, limited liability partnership, or other acceptable structure) that is not newly formed, does it comply with the requirements for a Borrower owning more than a single asset per [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.01: Single-Asset Entity](#)?
- Is it a well-capitalized, stable, ongoing 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?

303.03 Fund Review

➔ 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 Limited Experienced Owner

Requirements

You must determine if any Sponsor, Key Principal, or Guarantor is a Limited Experienced Owner.

To determine if a Co-Tenant Borrower is a Limited Experienced Owner, you:

- must analyze the Person named as the co-tenant representative per [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.02: Co-Tenant Borrowers](#); and
- may exclude from the analysis any:
 - passive Tenant in Common Member, who is solely named a Key Principal to comply with [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.02: Co-Tenant Borrowers](#); or
 - Borrower whose Controlling Interest is owned by a Key Principal or Guarantor that does not meet the definition of a Limited Experienced Owner.

For each Limited Experienced Owner:

- verify the identity of the Sponsor and each Key Principal or Guarantor, or any Person who owns a Controlling Interest in the Borrower, using a current
 - driver's license or passport,
 - personal residence, and
 - business address (not a P.O. Box);
- ensure your Credit Underwriting or Screening team meets, in person or virtually, each individual:



- identified as, or on behalf of, the Key Principal or Guarantor; or
- who owns, directly or indirectly, a Controlling Interest in
 - the Borrower,
 - any Key Principal, or
 - any Guarantor;
- for any individual identified as a Key Principal or Guarantor, or who owns a Controlling Interest in the Borrower, Key Principal, or Guarantor:
 - obtain a resume; and
 - verify employment history using
 - a Lexis-Nexis report, or
 - other industry standard background reporting tool;
- review, for each Key Principal or Guarantor, or Person who owns a Controlling Interest in the Borrower, their:
 - investment profile;
 - business goals; and
 - primary sources of income, which must be consistent with business activities;
- obtain evidence of the origin of transaction funds for
 - an Acquisition, or
 - cash-in refinances requiring the Borrower to deposit additional funds at closing; and
- determine any appropriate adjustments to the reported liquidity and net worth of the Sponsor and each Key Principal or Guarantor, including:
 - verifying liquidity based on 3 consecutive months of bank or brokerage statements for accounts (a bank or brokerage letter alone is insufficient to verify liquidity); and
 - using best efforts to verify the value (including ownership interest and debt outstanding) of all real estate owned, directly or indirectly, using
 - K-1 statements,
 - CoStar or similar service, or
 - mortgage loan verification from other creditors.



→ Guidance

You should consider if the additional underwriting requirements are appropriate for any Borrower, Sponsor, Guarantor, or Key Principal with whom you have never originated a multifamily Mortgage Loan, even if they are not a Limited Experienced Owner.

Section 305 Financial Statements

Requirements

You must:

- obtain signed financial statements dated within 15 months of the Commitment Date from all parties relevant to the Mortgage Loan; and
- ensure all:
 - Potential Red Flags for Mortgage Fraud and Other Suspicious Activity were considered; and
 - unresolved red flags were reported per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 310: Compliance.

For all financial statements, you must collect:

- a list of all other assets, including
 - notes receivable from related entities, and
 - an estimate of the market value of each asset with the basis for calculating value estimates; and
- 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, with their amount and timing.

For all Mortgage Loans, you must determine any:

- appropriate adjustments to the reported net worth and liquidity of the Sponsor and each Key Principal or Guarantor; and
- 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 306

Schedule of Real Estate Owned (SREO) (Form 4526)

Requirements

You must:

- obtain an SREO ([Form 4526](#)) from the Sponsor (if the Sponsor is not the named Key Principal and/or Guarantor), Key Principal, and Guarantor for all real estate assets;
- fully comply with the Instructions tab in [Form 4526](#); and
- fully analyze:
 - the SREO, including non-multifamily properties;
 - your identification and mitigation of underperforming properties;
 - upcoming maturities; and
 - recourse debt.

Guidance

You should review [Form 4526](#) and financial statements to determine whether the named Key Principal and any Guarantor have sufficient:

- multifamily real estate expertise to manage the
 - Mortgage Loan, and
 - Property; and
- unencumbered financial wherewithal to provide necessary support for the
 - Property, and
 - Mortgage Loan.

You do not need to obtain a separate [Form 4526](#) from the Sponsor if:

- a Mortgage Loan's Sponsor is not the named Key Principal or Guarantor; and
- you determined the Key Principal and/or Guarantor have sufficient multifamily real estate experience and the financial capacity to support the
 - Property, and



- Mortgage Loan.

Section 307 Certifications

307.01 Multifamily Underwriting Certificate (Form 6460)

Requirements

You must:

- obtain the appropriate Multifamily Underwriting Certificate (Form 6460) from
 - the Borrower,
 - any Guarantor, and
 - each Key Principal; and
- retain a copy of each Form 6460 in your Servicing File.

You must ensure the Form 6460:

- is signed and certified as
 - true,
 - correct, and
 - complete;
- has all corresponding financial documents attached;
- includes representations by the Borrower, Guarantor, or Key Principal that, to their knowledge, all
 - financial statements and schedules
 - are dated within 15 months of the certification date,
 - were prepared by the Borrower, Guarantor, or Key Principal or their independent accounting firm,
 - are true, correct, and provide a current and accurate account of the financial condition of the
 - Property,
 - Borrower,
 - Key Principals, and
 - Guarantors; and



- Property condition information provided to you or to the PCA Consultant is correct as of the date provided; and
- either:
 - is dated within 90 days before the Commitment Date; or
 - includes a certification of no material adverse changes to the financial condition shown in the financial statements delivered per the [Form 6460](#) from each of the
 - Borrower,
 - Key Principals, and
 - Guarantor.

307.02 Brokered Transaction Certifications

Requirements

For any Brokered Transaction, you must ensure the Borrower, all Key Principals, and any Guarantors directly deliver all:

- financial statements and schedules to you, including:
 - Property rent rolls;
 - Cooperative Maintenance Fee schedules;
 - Property operating statements;
 - Borrower financial statements; and
 - other related documents; and
- Property condition information to you or the PCA Consultant, including:
 - inspection records;
 - maintenance records;
 - pre-site visit questionnaire;
 - capital improvement plans; and
 - other relevant information.

For any Brokered Transaction, you must certify in your Transaction Approval Memo that you directly, not through a Broker or Correspondent:

- obtained and reviewed all underwriting source documents from the



- Sponsor/Borrower,
- Key Principals, and
- Guarantors;
- underwrote the Mortgage Loan;
- engaged all third-party reports/consultants; and
- entered accurate and complete Broker or Correspondent information into
 - DUS Gateway, and
 - Multifamily Committing and Delivery Systems.

Section 308 Fraudulent Conveyance

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 309 Applicant Experience Check

Requirements

For all Mortgage Loan applications and any Transfer/Assumption, you must:

- perform an ACheck per the timing below for
 - the Borrower,
 - each Key Principal,
 - each Principal,
 - each Guarantor, and
 - any Person who owns a Controlling Interest in an entity



- Key Principal, or
- Guarantor; and

- receive a "You can proceed" response.

| ACheck Timing | |
|-----------------------|---|
| For all... | You must perform an ACheck for each of the following events... |
| Mortgage Loans | <ul style="list-style-type: none"> • upon accepting a signed application when you receive the <ul style="list-style-type: none"> - Social Security Number, or - Tax Identification Number; • before you obtain a Rate Lock; and • before the Mortgage Loan Origination Date. |
| Transfers/Assumptions | <ul style="list-style-type: none"> • when the Borrower submits the request and you receive the Transferee's/Assignee's <ul style="list-style-type: none"> - Social Security Number, or - Tax Identification Number; and • before any required Amendment to the Loan Agreement is executed. |

Guidance

When entering your final Mortgage Loan data per [Part IV, Chapter 4: Delivery, Section 402.01: Data and Documents](#), the Multifamily Committing and Delivery System runs an ACheck on all listed participants. The Mortgage Loan will not reach "Submitted" status unless a "You can proceed" response is received.

For any extended Rate Lock (e.g., 180 days), you should consider performing an additional ACheck between Rate Lock and Delivery.

Operating Procedures

The ACheck application is available at <https://multifamily.fanniemae.com/applications-technology/acheck>.



| ACheck Frequently Asked Questions | |
|--|--|
| Question | Answer |
| What information do you need to perform an ACheck? | The applicant's <ul style="list-style-type: none"> • tax identification number, or • Social Security number. |
| How do you view ACheck results? | The ACheck application will immediately respond either <ul style="list-style-type: none"> • "You can proceed", or • "Do not continue processing". |
| What must you do if you receive a "You can proceed" response? | For each applicant, you must: <ul style="list-style-type: none"> • receive a "You can proceed" response to proceed with the Mortgage Loan application; • complete full credit underwriting; and • not interpret this ACheck response to mean the applicant is approved. |
| What must you do if you receive a "Do not continue processing" response? | If the ACheck response is "Do not continue processing the transaction involving this applicant" (or similar wording), you must: <ul style="list-style-type: none"> • comply with all ACheck instructions; and • not proceed with the application by omitting any Borrower, Key Principal, Principal, or Guarantor who received a "Do Not Process" response. |
| What about confidentiality? | <ul style="list-style-type: none"> • Fannie Mae will not provide any information regarding a "Do not continue processing" response for a particular <ul style="list-style-type: none"> - Borrower, - Key Principal, - Principal, or - Guarantor. • You must establish procedures ensuring all ACheck responses remain confidential. |



Section 310

Compliance

Requirements

You must:

- unless you are subject to, and complying with, the Bank Secrecy Act, establish and maintain effective procedures and controls (including employee training), similar to those required by the Bank Secrecy Act, to prevent, identify, and report potential:
 - mortgage fraud; and
 - other suspicious activity; and
- confirm every Borrower, Key Principal, Principal, or Guarantor is not a Blocked Person.

Operating Procedures

If you identify **Potential Red Flags for Mortgage Fraud and Other Suspicious Activity**:

1. Do not inform the Borrower, any Borrower Affiliate, Key Principal, Principal, or Guarantor.
2. Evaluate the red flags to determine if a plausible business explanation exists.
3. Immediately report any unresolved red flags indicative of mortgage fraud or other suspicious activity to:
 - <https://fims.my.salesforce-sites.com/MortgageFraudReport> or (800) 232-6643; and
 - Lender Assessment Oversight.
4. Maintain all documentation relating to the potential mortgage fraud or other suspicious activity.
5. Promptly provide all related documentation to Fannie Mae upon request.
6. 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).

If you identify any Borrower, Key Principal, Principal, or Guarantor as a Blocked Person:

1. Report the Blocked Person to Lender Assessment Oversight within 24 hours.



2. Maintain all documentation relating to your searches.
3. Promptly provide all related documentation to Fannie Mae upon request.
4. Do not
 - Deliver the Mortgage Loan, or
 - proceed with the Mortgage Loan by omitting any Person that is a Blocked Person.

Section 311 Execution of Non-Recourse Guaranty

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
- Key Principal (who would otherwise be the Guarantor) is a Publicly-Held Entity.

Section 312 Conflict Mortgage Loans

312.01 Description

Requirements



| Conflict Mortgage Loan Type | |
|-----------------------------|--|
| Conflict Mortgage Loan | <ul style="list-style-type: none">• Any Mortgage Loan in which:<ul style="list-style-type: none">- you, or any of your Lender Affiliates or Lender Senior Executives<ul style="list-style-type: none">▪ owns (or will own) any direct or indirect equity interest in the Borrower, or▪ directly or indirectly controls the Borrower; or- any of your employees, or a group of your employees, owns (or will own) more than a 5% direct or indirect equity interest in the Borrower.• Any Mortgage Loan with DLA Mezzanine Financing. <p>Note: The following are not considered when determining if the Mortgage Loan is a Conflict Mortgage Loan:</p> <ul style="list-style-type: none">• any equity interest you acquire in the Borrower relating solely to obtaining the associated LIHTCs (see Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 709: LIHTC Properties Lender Equity Interest); and• ownership by a Lender Senior Executive in a Publicly-Held Entity that has a direct or indirect ownership in the Borrower, if the Lender Senior Executive has no:<ul style="list-style-type: none">- Control over the Publicly-Held Entity; or- influence over its investment in the Borrower. |



| Conflict Mortgage Loan Type | |
|-----------------------------------|---|
| Prohibited Conflict Mortgage Loan | <p>Any Mortgage Loan in which:</p> <ul style="list-style-type: none">• you or any single Lender Senior Executive of yours owns more than a 5% direct or indirect equity interest in the Borrower;• any group of your Lender Senior Executives together owns more than a 10% direct or indirect equity interest in the Borrower; or• you or any of your Lender Affiliates is the Property manager. |



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

You must not



- Deliver a Prohibited Conflict Mortgage Loan, or
- cause any Portfolio Mortgage Loan to become a Prohibited Conflict Mortgage Loan.

312.02 Restrictions

312.02A 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:
 - Borrower's complete ownership structure;
 - relationship among the Lender, Borrower, and applicable Lender Affiliate; and
 - percentage ownership of each entity.



Operating Procedures

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

312.02B 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.

312.02C 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.

312.02D 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.

312.02E 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 15 Mezzanine Financing; Preferred Equity and Structured Common Equity

Section 1501 Mezzanine Financing

1501.01 Description

Requirements

A Mortgage Loan with Mezzanine Financing is permitted only if

- the Mezzanine Financing is originated by an approved DUS Lender Affiliate (DLA Mezzanine Financing), or
- Fannie Mae approves the Mezzanine Financing from another source (non-DLA Mezzanine Financing) on a case-by-case basis.

Before underwriting non-DLA Mezzanine Financing, you must contact the Deal Team.

1501.01A Eligible Mortgage Loans

Requirements

Mortgage Loans with Mezzanine Financing must:

- be newly originated;
- have an original principal balance of at least
 - \$10 million, for DLA Mezzanine Financing, or
 - \$50 million, for non-DLA Mezzanine Financing;
- be fixed rate; and
- be flagged for MBS additional disclosure per [Form 4098](#).

1501.01B Eligible Terms

Requirements

Mezzanine Financing must:

- have a fixed rate or fixed mezzanine rate of return without escalations;
- not have a maturity date, redemption date, trigger date, or require repayment of the Mezzanine Financing during the term of the Mortgage Loan; and



- have a minimum \$1 million origination balance.

1501.01C Loss Sharing

Requirements

Loss sharing is required on all Mortgage Loans with Mezzanine Financing.

1501.01D Lender's Loan Application

Requirements

Your loan application form must:

- require the Borrower to indicate whether it has or intends to obtain Mezzanine Financing as part of its organizational or capital structure; and
- inform the Borrower that you may delay approval or revoke any prior approval if the Borrower changes its intention to obtain Mezzanine Financing.

1501.02 Underwriting

Requirements

You must comply with the following table.

| Topic | Requirements |
|--------------------|--|
| Income Projections | <ul style="list-style-type: none">• Provide support for the income projections used to determine the aggregate amount of the Mortgage Loan and Mezzanine Financing.• Demonstrate that the local economics are sufficient and sustainable to support both loans. |
| Underwritten NCF | <p>Use the same Underwritten NCF to determine the loan amount for</p> <ul style="list-style-type: none">• the Mortgage Loan, and• the Mezzanine Financing. |



| Topic | Requirements |
|------------------------------|--|
| Refinance Analysis | <p>Prepare a refinance analysis that:</p> <ul style="list-style-type: none"> • incorporates the terms of both the Mortgage Loan and the Mezzanine Financing; • demonstrates that the Borrower will <ul style="list-style-type: none"> - maintain a positive equity position in the Property throughout the term of the Mortgage Loan, or - have some other incentive (e.g., continuing cash flow) to remain committed to the Property and its successful operation; and • concludes that there will be sufficient cash flow, NCF growth, and residual value to pay off the Mortgage Loan and the Mezzanine Financing at maturity (as fully extended, if applicable). |
| Experience | <p>Ensure that the Sponsor and each Key Principal have sufficient net worth, liquidity, and experience with the Property type and market to justify the origination of the Mortgage Loan and the Mezzanine Financing.</p> <p>If upgrades or rehabilitation are being financed by the Mezzanine Financing, then ensure that the Borrower, each Key Principal, and the mezzanine borrower also have</p> <ul style="list-style-type: none"> • sufficient experience managing the scope of the proposed rehabilitation, and • strong property management experience in the local market. |
| Mezzanine Borrower Structure | <p>Ensure the mezzanine borrower is</p> <ul style="list-style-type: none"> • a newly-formed, special purpose, bankruptcy-remote limited liability company or limited partnership, • the sole owner of the Borrower, and • wholly-owned by the Principals of the Borrower. |



| Topic | Requirements |
|---------------------|---|
| Appraisal | If the Mezzanine Financing is funding rehabilitation, ensure the Appraisal states the Property's "as is" and "as completed" values. |
| Third-Party Reports | For Mortgage Loans with DLA Mezzanine Financing, include in the underwriting submission, on behalf of your DL Mezzanine Affiliate any: <ul style="list-style-type: none">• internal or third-party inspection reports;• PCAs; and• architect's or engineer's reports (or other similar reports) related to the Mezzanine Financing. |

Guidance

You may require a Completion Guaranty ([Form 6018](#)).

The DUS Lender Mezzanine Affiliate may also require a completion guaranty from the Mezzanine Financing borrower.

1501.03 Submission

1501.03A Materials

Operating Procedures

You must submit the following in DUS Gateway when you submit the Mortgage Loan underwriting:

- the Mezzanine Financing sizing model;
- a sources and uses of funds reflecting the Mezzanine Financing proceeds;
- any approvals associated with the Mezzanine Financing; and
- for any Mezzanine Financing that finances rehabilitation:
 - a description of the proposed rehabilitation;
 - the approved rehabilitation budget;
 - the rehabilitation timeline; and
 - the construction or rehabilitation documents.



1501.03B Data

Operating Procedures

To obtain a Commitment, you must complete the Mezzanine Financing fields in DUS Gateway.

1501.04 Intercreditor Agreement

Requirements

For each Mortgage Loan with Mezzanine Financing, you and the Mezzanine Financing lender must execute an intercreditor agreement approved by Fannie Mae.

Operating Procedures

The Borrower must pay the legal fees if Fannie Mae engages outside counsel to review any intercreditor agreements. These fees are non-refundable, and you must pay the counsel retainer when you submit the underwriting.

Guidance

You may charge the Borrower your own legal and due diligence fees.

1501.05 Servicing

Operating Procedures

You must service, report, and remit on the DLA Mezzanine Financing per Part V.

In all cases, you, as servicer of the DLA Mezzanine Financing, must promptly notify Fannie Mae of any default on the Mezzanine Financing.

Section 1502 Preferred Equity and Structured Common Equity

Requirements

For any Mortgage Loan with Preferred Equity or Structured Common Equity in the Borrower's ownership structure, you must comply with the

- Equity Checklist (Form 6441), and
- Preferred Equity Operating Procedures Job Aid.



→ Guidance

This Section does not apply to any Borrower organizational or capital structures relating solely to the allocation of LIHTCs.

✦ Operating Procedures

You must submit:

- a completed Equity Checklist ([Form 6441](#)) using:
 - DUS Gateway if the Borrower's ownership structure includes any Preferred Equity or Structured Common Equity requiring Pre-Review per [Form 6441](#); or
 - DUS DocWay with the Mortgage Loan Delivery Package in Folder II if the Borrower's ownership structure does not include Preferred Equity or Structured Common Equity requiring Pre-Review per [Form 6441](#); and
- Multifamily Underwriting Certificate (Key Principal/Principal) ([Form 6460.Key Principal](#)) for all Preferred Equity investors identified as Principals with "Additional Principal Due Diligence Requirements" per [Form 6441](#), with the Mortgage Loan Delivery Package in Folder II in DUS DocWay.



Glossary

C

Control Takeover Right of an equity investor in the Borrower to, directly or indirectly, in violation of the Loan Agreement:

- change Control of the Borrower, Key Principal, or Guarantor; or
- effect a transfer of any direct or indirect ownership interest in the Borrower, Key Principal, or Guarantor.

Synonyms

E

Effective Gross Income For any specified period, the Property's total Net Rental Income, plus commercial income, plus other income, all calculated per [Part II, Chapter 2: Valuation and Income](#), [Section 203: Income Analysis](#) and the applicable products and features in Part III.

Synonyms

- EGI



Excess Net Cash Flow

For any specified period, the Net Cash Flow remaining after subtracting, in order of priority:

- first, all amounts due and owing on the Mortgage Loan, including:

- principal and interest; and
- any other funding obligations per the Loan

Documents;

- second, any payments due on any Third-Party Financing that is not Soft Financing compliant with [Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 704.04: Soft Financing](#); and

- third, any payments due on any Third-Party Financing not already subtracted per the above.

Synonyms

- Excess NCF
- Surplus Net Cash Flow
- Surplus NCF

F

Forced Sale

Right of a direct or indirect equity investor in the Borrower to require a sale or other disposition of the Property (whether via deed or a transfer of the direct or indirect ownership interests in Borrower).

Synonyms

H

Hard Pay Preferred Equity

Preferred Equity structure in the Borrower including the Preferred Equity investor's right to a Control Takeover while the Mortgage Loan is outstanding if the Preferred Equity investor fails to receive returns required to be paid regardless of:

- available Excess Net Cash Flow; or
- whether the Property yields Net Cash Flow sufficient to pay the returns.

Synonyms



M

Mandatory Pay Preferred Equity

Preferred Equity structure in the Borrower including the Preferred Equity investor's right to a Forced Sale while the Mortgage Loan is outstanding if the Preferred Equity investor fails to receive returns that are required to be paid, regardless of:

- available Excess Net Cash Flow; or
- whether the Property yields Net Cash Flow sufficient to pay the returns.

Synonyms

Multifamily Committing and Delivery System

Electronic committing and delivery system used for issuing and confirming Commitments for acquiring Mortgage Loans, or any such successor system.

Synonyms

- C&D
- Multifamily Committing and Delivery Systems

N

Net Cash Flow

At underwriting or for any specified period, the amount calculated per [Part II, Chapter 2: Valuation and Income, Section 203: Income Analysis](#) and the applicable products and features in Part III.

Synonyms

- NCF

Net Operating Income

At underwriting or for any specified period, the Property's total Effective Gross Income minus operating expenses.

Synonyms

- NOI



Net Rental Income

For any specified period, the Property's net rental income calculated per [Part II, Chapter 2: Valuation and Income, Section 203: Income Analysis](#) and the applicable products and features in [Part III](#).

Synonyms

- NRI

P

Preferred Equity

A direct or indirect investment in the Borrower, for which the organizational documents provide that equity investor with:

- an asset management fee or other fee before dividends, distributions, payments, or returns are paid to the investors; or
- preferred or unequal rights to receive dividends, distributions, payments, or returns relative to other equity owners, but excluding:
 - an equity investment made solely for the allocation of LIHTCs; or
 - preferred dividends, distributions, payments, or returns paid to:
 - a REIT Equity Investor from Excess Net Cash Flow; or
 - an equity investor in the form of
 - payments or a promote return after pari passu payments are made to all equity investors based on a specified minimum internal rate of return or return threshold; or
 - repayment of a protective advance to pay debt service or other amounts due under the Loan Documents, or any other amounts reasonably required for the operation and maintenance of the Property.

Synonyms



Publicly-Held Entity

Any:

- entity with a class of equity securities registered under Sections 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended (including any real estate investment trust with voting shares or beneficial interests so registered); or
- pension fund controlled by any United States municipal, county, state, or federal governmental unit (or any political subdivision, agency, or instrumentality thereof).

Synonyms

S

Soft Pay Preferred Equity

Preferred Equity structure specifying:

- any returns due to the Preferred Equity investor are only required to the extent of available Excess Net Cash Flow for so long as the Mortgage Loan is outstanding; and
- if Excess Net Cash Flow is not available, any returns owed to the Preferred Equity investor may be permitted to accrue.

Synonyms

Structured Common Equity

Equity interests in the Borrower's organizational structure (not including Preferred Equity) where the investor has:

- Forced Sale rights; or
- Control Takeover rights.

Synonyms

T



Third-Party Financing

Any loan to, or indebtedness of, a Borrower that:

- is not a Supplemental Mortgage Loan or Pre-Existing Mortgage Loan; and
- either:
 - requires repayment by the Borrower; or
 - is forgiven (over time or at maturity) subject to Borrower compliance with certain covenants or conditions.

Synonyms