



Fannie Mae®

Multifamily Selling and Servicing Guide

Effective as of October 10, 2023

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Summary of Changes

HIGHLIGHTS

Effective for Mortgage Loans Committed as of October 10, 2023, created a new Sponsor-Dedicated Workforce (SDW) Housing Properties chapter and edited asset management requirements.

Primary Changes

To support the creation and preservation of affordable workforce housing, Fannie Mae created or modified:

- Part III, Chapter 22: Sponsor-Dedicated Workforce (SDW) Housing Properties chapter, including rent restriction requirements and compliance information;
- Part V, Chapter 4: Asset Management: Loan Document Administration, Section 419: Sponsor-Dedicated Workforce Properties section describing SDW asset management requirements;
- Part V, Chapter 7: Non-Performing Mortgage Loans, Section 704.01C: Types of Performance Defaults, adding Other Default Reporting requirements;
- Modifications to Multifamily Loan and Security Agreement (Sponsor-Dedicated Workforce Housing) (Form 6271.SDW);
- Modifications to Security Instrument (Sponsor-Dedicated Workforce Housing) (Form 6325); and
- Supplemental Annual Loan Agreement Certification (Sponsor-Dedicated Workforce Housing) (Form 6620.Supplemental.SDW).

Questions

Please contact Jane Christen, at jane_christen@fanniemae.com, with any questions.



Chapter 22

Sponsor-Dedicated Workforce (SDW) Housing Properties

Section 2201

Description

☑ Requirements

An SDW Housing Property is a Property where:

- either
 - all rent restrictions are newly imposed by the Borrower, or
 - new rent restrictions are being added to existing rent restrictions; and
- the aggregate rent restrictions:
 - meet or exceed 20% @ 80%: at least 20% of all units have rent restrictions in place making them affordable to households earning up to the following as adjusted for family size:
 - 80% of AMI; or
 - 100% of AMI in an FHFA-designated “cost-burdened” market; or
 - 120% of AMI in an FHFA-designated “very cost-burdened” market;
 - are in place at the Property by the Mortgage Loan Origination Date; and
 - remain in place during the entire Mortgage Loan term.

An SDW Housing Property is ineligible if:

- 3 or more years of LIHTC restrictions remain; and
- the Borrower intends to enter into the Qualified Contract Process (per Internal Revenue Code Section 42) within 3 years after the Mortgage Loan Origination Date.

➡ Guidance

- FHFA annually designates the “cost-burdened” and “very cost-



burdened” markets.

- As designated by FHFA, the income threshold for affordability is:
 - 100% of AMI or below for “cost-burdened” markets; and
 - 120% of AMI or below for “very cost-burdened” markets.
- This market designation is available in the:
 - Very Cost-Burdened and Cost-Burdened Renter Multifamily Markets; and
 - “Sponsor-Dedicated Workforce (SDW) Housing” section of the Affordable Housing Data Guidance Job Aid.

Section 2202

Compliance

Requirements

You must:

- ensure the Borrower’s execution of the:
 - Modifications to Multifamily Loan and Security Agreement (Sponsor-Dedicated Workforce Housing) (Form 6271.SDW); and
 - Modifications to Security Instrument (Sponsor-Dedicated Workforce Housing) (Form 6325);
- require the Property’s compliance within 12 months after the Mortgage Loan Origination Date; and
- ensure the SDW units are at least proportional to the Property’s overall unit mix.

Guidance

An example of an acceptable unit mix is:

Sample 100-Unit Building		
Apartment Type	Number of Units	Minimum 20% Unit Mix
Studio	10	2
1 Bedroom	50	10



Sample 100-Unit Building		
Apartment Type	Number of Units	Minimum 20% Unit Mix
2 Bedroom	30	6
3 Bedroom	10	2
Total	100	20

Operating Procedures

You must use the Sponsor-Dedicated Workforce (SDW) Housing Job Aid to commit and Deliver a Mortgage Loan qualifying for a Sponsor-Dedicated Workforce Housing pricing incentive.



Chapter 4 Asset Management: Loan Document Administration

Section 401 Servicing Requirements

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

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

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

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

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 Accounts, Section 301: Generally** 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

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 Accounts](#).

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 for 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 Noncompliance with Issuer Rating Requirements or Expiration of Letter of Credit

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

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

3. Draws Occasioned by Borrower Request

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

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



and will provide appropriate follow-up instructions.

4. No Interest on Proceeds Held by Fannie Mae

Fannie Mae will not pay interest on the cash proceeds it holds resulting from a draw on a [Letter of Credit](#).

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

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

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

The [Servicer](#) is delegated the authority to:

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

[Servicers](#) must document all disbursement requests, including any supporting documentation and analysis, in the [Servicing File](#).

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](#).

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 Accounts;
- 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;
- for a Green Rewards Mortgage Loan, ensure all Efficiency Measures are completed in a timely manner and no later than:
 - 12 months after the Mortgage Loan Origination Date; or
 - any shorter time period per Part II, Chapter 4: Inspections and Reserves, Section 402: Property Condition Assessment (PCA) for capital improvements identified as Immediate Repairs by the PCA;
- 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; and

- if the invoice exceeds the lesser of \$25,000 or 1% of the UPB:
 - a copy of the invoice detailing the covered materials, labor, or services;
 - payment evidence; and
 - a Lien release from each contractor, subcontractor, or materialman.

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;
- no default exists under any Loan Document;
- for each Green Rewards Efficiency Measure disbursement, the Efficiency Measure was reported as:
 - compliant on the Green Rewards Verification Inspection Form (Form 4221) per Part V, Chapter 4: Asset Management: Loan Document Administration, Section 408.03I: Green



Rewards Efficiency Measure Verification;
or

- noncompliant, and Fannie Mae has approved and closed the remediation in DUS Property Monitor; and
- for a Green Rewards Mortgage Loan with a Solar PV System as an Efficiency Measure, Completion/Repair Escrow funds are only released after confirming commercial operation of the Solar PV System.

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 Escrow is not for a Green Rewards Efficiency Measure that must be released per Part V, Chapter 4: Asset Management: Loan Document Administration, Section 408.03I: Green Rewards Efficiency Measure Verification.

For Green Rewards Efficiency Measures included in a



Moderate Rehabilitation Mortgage Loan, funds may be periodically disbursed from the applicable Completion/Repair Escrow or Rehabilitation Reserve Escrow as with a non-Green Rewards Mortgage Loan, rather than only after a compliant verification inspection of 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.

408.03I Green Rewards Efficiency Measure Verification

For all Green Rewards Mortgage Loans, the Servicer must ensure a Green Rewards Verification inspection is performed for all Efficiency Measures to confirm correct installation, and identify any errors that may hinder the Property achieving the expected savings and benefits.

1. Green Rewards Verification Inspection

For a Green Rewards Verification inspection, the inspector must use the Green Rewards Verification Inspection Form (Form 4221) that is pre-populated with Property information and the Efficiency Measures identified as Green Rewards Repairs in the Completion/Repair Schedule. The Servicer must submit Form 4221 within 60 days after the Green Rewards Verification inspection date, and timely resolve any issues identified by Fannie Mae.

2. Minimum Inspector Qualifications

Third-party or Servicer staff must attend Fannie Mae's Green Rewards Verification inspection training on the requirements, processes, and documentation before conducting Green Rewards Verification inspections.

The minimum inspector qualifications correspond to the applicable Efficiency Measure type, and may be held by the inspection project team, rather than by an individual inspector.

Efficiency Measures	Description	Minimum Inspector Qualification
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Basic	<p>Simple upgrades such as:</p> <ul style="list-style-type: none"> • low-flow water fixtures; or • lighting improvements. 	<p>Servicer must ensure the inspector is either a qualified third-party or Servicer staff per Part V, Chapter 5: Surveillance, Section 502.03: Property Inspection Protocol and Part V, Chapter 5: Surveillance, Section 502.05A: Qualifications.</p>
Complex	<p>Upgrades and changes to building systems, such as:</p> <ul style="list-style-type: none"> • heat recovery ventilation systems; or • boiler controls. 	<ul style="list-style-type: none"> • For Solar PV System Efficiency Measures, the Servicer must retain a <ul style="list-style-type: none"> - Solar Technical Consultant per Part III, Chapter 4: Green Mortgage Loans, Section 401.03: Technical Solar Report, or - qualified PCA High Performance Building Consultant per the Instructions for Performing a Multifamily Property Condition Assessment (Form 4099). • For other Efficiency Measures, the Servicer must retain a qualified PCA High Performance Building Consultant per Form 4099.

3. Unit Inspection

The inspector must inspect a minimum number of occupied and vacant units as follows:

Total number of units	Minimum number of units to be inspected
Less than 20	3 units
20 - 55	5 units
56 - 99	10% of total units



100 - 200	10 units
201 - 600	5% of total units
More than 600	30 units

Form 4221 calculates the required number of units and tracks the number of completed units based on the user's inputs. When unit inspections are required, the Servicer must:

- Determine the appropriate combination of vacant and occupied units for inspection.
- Determine which vacant and occupied units to inspect.
- Submit at least:
 - 1 representative photograph of each Efficiency Measure listed on Form 4221; and
 - 1 photograph of each non-compliant Efficiency Measure.

For Partial Efficiency Measures, the Servicer must request a rent roll or other documentation identifying the units that received Partial Efficiency Measure installations, and conduct the Green Rewards Verification of those units.

4. Determining Compliance

An Efficiency Measure is compliant when the inspector:

- inspects each Efficiency Measure;
- verifies its proper installation within specifications using product information and field observation;
- confirms the Efficiency Measure installation meets the Multifamily Loan Agreement and Completion/Repair Schedule requirements; and
- documents it on Form 4221.

5. Remediating Noncompliance

When an Efficiency Measure is noncompliant:

- The Servicer must:
 - provide a notice of the Efficiency Measure deficiencies to the Borrower and determine a course of action;



- submit a remediation action plan through the DUS Property Monitor system that:
 - addresses the [Property's Efficiency Measure](#) deficiencies; and
 - provides a target date for remediation completion that is no more than 60 days after the [Borrower](#) receives the notice of deficiencies.
- The [Borrower](#) must correct or complete the [Efficiency Measure](#) installation during the remediation period.
- Fannie Mae may require the [Servicer](#) to inspect the remediated [Efficiency Measures](#) based on the severity of noncompliance.

6. Verification Inspection Form Review

The [Servicer](#) must internally review all Green Rewards Verification Inspection Forms ([Form 4221](#)), whether prepared by a third party or by the [Servicer](#) before submission.

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 Accounts 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 PCA may be waived for a Mortgage Loan with a: <ul style="list-style-type: none">• Pass rating;• Property inspection less than 1 year old; and• Property condition rating of 1, 2, or 3.
1 Year to 5 Years	The new PCA may be waived for a Mortgage Loan with a: <ul style="list-style-type: none">• Pass rating;• Property inspection report less than 1 year old; and• Property condition rating of 1 or 2.
More than 5 Years	The new PCA may be waived for 5 years for a Mortgage Loan with a: <ul style="list-style-type: none">• Pass rating;• Property Inspection report less than 1 year old; and• Property condition rating of 1 or 2.

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 and Lease Audit;



- 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



Services 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**; and
- if the invoice exceeds the lesser of \$25,000 or 1% of the **UPB**:
 - a copy of the invoice detailing the covered materials, labor, or services;
 - payment evidence;
 - a **Lien** release from each contractor, subcontractor, or materialman; 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

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

Per the **Interest Rate Cap Reserve and Security Agreement** (Form 6442), 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 Accounts**;
- 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 Accounts.

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 Noncompliance with Applicable Laws, Ordinances and Regulations

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

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

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

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 Accounts**.

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 Accounts](#), 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 **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**;
- if the invoice exceeds the lesser of \$25,000 or 1% of the **UPB**:
 - a copy of the invoice detailing the covered materials, labor, or services;
 - payment evidence; and
 - a **Lien** release from each contractor, subcontractor, or materialman; 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

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

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;
- [extensions to complete Completion/Repairs](#);
- 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 DUS Gateway 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; 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

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

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 noncompliance 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 Accounts**.

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

The Servicer must collect annual compliance documentation in the form of:

- 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 Servicer 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** must obtain, at least once in each calendar year (and more often if directed by Fannie Mae):

- 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 Expanded Housing Choice

A **Mortgage Loan** with an Expanded Housing Choice pricing incentive requires additional monitoring. Per the **Loan Documents**, the **Servicer** must:



- receive from the [Borrower](#) a Supplemental Annual Loan Agreement Certification (Expanded Housing Choice) ([Form 6620.Supplemental.Expanded Housing Choice](#)), including:
 - a rent schedule or rent roll identifying all units where rent is paid using [Housing Choice Vouchers](#);
 - a report for all rental applications seeking to use [Housing Choice Vouchers](#), including:
 - the number of rental applications;
 - the current status; and
 - an explanation for all denied applications; and
 - for the first annual Certification, complete lease files for at least 25% of the tenants paying rent using [Housing Choice Vouchers](#);
- review [Form 6620.Supplemental.Expanded Housing Choice](#) and the rent roll for reasonableness and completeness, and notify Fannie Mae via a Borrower Request in the [MAMP](#) of any Certification issues, including non-delivery;
- within 30 days after receiving the first [Form 6620.Supplemental.Expanded Housing Choice](#), compare the [Housing Choice Voucher](#) lease files to the rent roll and notify Fannie Mae via a Borrower Request in the [MAMP](#) of any discrepancies;
- ensure the [Borrower](#) conducts any Fair Housing training required by Fannie Mae for its employees;
- submit a Non-Monetary Default Borrower Request in the [MAMP](#) if the required Fair Housing training is not completed within the required timeframe;
- notify the [Borrower](#) in writing of any default under the [Loan Documents](#) and any required recapture of the pricing incentive;
- submit a copy of any [Borrower](#) notice for recapturing the pricing incentive via a Non-Monetary Default Borrower Request in the [MAMP](#); and
- retain in its [Servicing File](#), copies of:
 - [Form 6620.Supplemental.Expanded Housing Choice](#) and the rent roll;



- the results of the rent roll and lease file review submitted with the first Form 6620.Supplemental.Expanded Housing Choice; and
- any Borrower notices required for:
 - Fair Housing training;
 - Loan Document default; or
 - pricing incentive recapture.

Fannie Mae:

- may conduct Fair Housing testing for a Mortgage Loan delivered with an Expanded Housing Choice pricing incentive;
- will notify the Servicer if the Fair Housing testing or any other information reveals the Borrower is not complying with Part II, Chapter 1: Attributes and Characteristics, Section 101.02: Expanded Housing Choice; and
- for any noncompliance, may:
 - require the Borrower's employees to complete Fair Housing training; and/or
 - notify the Borrower it is in default and require the Borrower to repay the pricing incentive per the Multifamily Loan Agreement and Payment Guaranty (Pricing Incentive Recapture) (Form 6020.PIR).

418.08 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

Sponsor-Dedicated Workforce Housing Properties

Per the **Loan Documents**, to monitor an **SDW Housing Property**, the **Servicer** must:

- annually review the rent roll and sufficient lease files to determine **Borrower** compliance with the required rent restrictions;
- receive an annual Supplemental Annual Loan Agreement Certification (Sponsor-Dedicated Workforce Housing) (Form 6620.Supplemental.SDW) from the **Borrower**, and:
 - attest to the Form 6620.Supplemental.SDW that the **Servicer** has audited the rent roll for **Borrower** compliance with the required rent restrictions; or
 - for any noncompliance:
 - notify the **Borrower** of the default; and
 - submit a Non-Monetary Default Borrower Request in the **MAMP**;
- retain in the **Servicing File**, copies of:
 - Modifications to Multifamily Loan and Security Agreement(Sponsor-Dedicated Workforce Housing) (Form 6271.SDW);
 - Modifications to Security Instrument (Sponsor-Dedicated Workforce Housing) (Form 6325);
 - Property rent restrictions;



- annual rent roll and compliance results; and
- any Loan Document default Borrower notices; and
- per the Sponsor-Dedicated Workforce (SDW) Housing Job Aid, annually submit copies of the:
 - Form 6620.Supplemental.SDW and Servicer attestation; and
 - Property rent roll.

Section **419-420** MH Communities with Tenant Site Lease Protections

A Mortgage Loan secured by an MH Community with Tenant 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;
- a certified copy of the notice sent to all MH Site Lease tenants if the Tenant Site Lease Protections were implemented by the Rules and Regulations;
- copies of any actual MH Site Lease requested by Lender; and
- a certification of the actual percentage of MH Site Leases that include all required Tenant Site Lease 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;
- if the Tenant Site Lease Protections were implemented within the MH Community's rules and regulations, confirm:
 - the rules and regulations contain all Tenant Site Lease Protections and are publicly posted in the MH Community; and
 - each MH Site Lease tenant received written notice of all Tenant Site Lease Protections added to the rules and



regulations;

- if the **Tenant Site Lease Protections** were implemented within the **MH Site Lease**:
 - confirm the **MH Site Lease** form includes:
 - all **Tenant Site Lease Protections**; and
 - the required percentage of **MH Site Leases** (i.e., 25%, 50%, or 100%) are covered by the **Tenant Site Lease Protections**; and
 - annually audit at least 25% of the minimum percentage of **MH Site Leases** required per the **Loan Documents** (i.e., 25%, 50%, or 100%) to ensure all **Tenant Site Lease Protections** are included;
- determine whether the **Borrower** complied with all terms of the **Tenant Site Lease Protections** (e.g., the **Borrower** only raised **MH Site Lease** rents after required notice);
- 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 noncompliance.

Section ~~420~~ 421 Single Asset Entity Conversion

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~~ 422 Loan Document Amendments

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~~ 423 Maturing Mortgage Loans

~~422.01~~ 423.01 Written Policy

423.01

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

423.02

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

423.03

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

423.04

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](#).



Chapter 7

Non-Performing Mortgage Loans

Section 701

Generally

This Chapter sets forth the policies, procedures and standards for servicing [Non-Performing Mortgage Loans](#) through the default resolution process. The provisions of this Chapter apply, unless otherwise noted, to both [Secondary Risk Mortgage Loans](#) and [Primary Risk Mortgage Loans](#).

Fannie Mae requires that, at a minimum, each [Servicer](#) offer the same standard of care to its Fannie Mae portfolio as it would its own portfolio. Subject to this Chapter, the [Servicer](#) must aggressively pursue collection of all amounts due from [Borrowers](#) under the [Loan Documents](#) to minimize losses. To that end, this Chapter sets forth the roles, duties and responsibilities of the various groups within Fannie Mae, the [Servicer](#), and, if applicable, the [Special Servicer](#) charged with resolving delinquencies and defaults in the most efficient and expeditious manner.

The party performing the loss mitigation actions, as outlined in this Chapter 7, is referred to as the "[Special Servicer](#)". The [Special Servicer](#) will either be the [Lender](#), Fannie Mae, or a contract [Special Servicer](#) for the [Lender](#) or Fannie Mae, as permitted by this [Guide](#). In this Chapter, any reference to the respective rights or duties of the [Lender](#) or Fannie Mae, as the [Special Servicer](#), shall also apply to any approved contract [Special Servicer](#) for the [Lender](#) or Fannie Mae; however, it is the [Lender's](#) responsibility to ensure that any actions taken in its behalf by a contract [Special Servicer](#) fully comply with the requirements of this [Guide](#).

The requirements set forth in this Chapter represent only the minimum requirements that Fannie Mae expects from the [Servicer](#). Unusual circumstances may require the [Servicer](#) to perform additional servicing duties as directed by Fannie Mae. Fannie Mae requires a high standard of delinquent [Mortgage Loan](#) servicing. Failure to service in accordance with that standard may result in Fannie Mae's exercise of its remedies as set forth in the [Guide](#) and the [Lender's Contract](#).



In the event of a conflict between this Chapter, the Lender's Contract, the Transaction Documents, and the Loan Documents, the following is the order of priority regarding governing provisions: (1) Loan Documents, (2) Transaction Documents, (3) Lender's Contract, and (4) this Chapter. To the extent not in contradiction with the Loan Documents, the Lender's Contract or the Transaction Documents, the requirements of this Chapter must be satisfied.

Section 702 Secondary Risk Mortgage Loans and Primary Risk Mortgage Loans

702.01 Generally

For certain Lenders, the Lender's Contract with Fannie Mae will specify which party has all of the risk of loss on the Mortgage Loan, or if the Lender and Fannie Mae share the loss. In some Lender Contracts, the Mortgage Loans may be Secondary Risk until the Lender's recourse obligation is deemed exhausted after which the Mortgage Loans will become Primary Risk.

702.02 Secondary Risk Mortgage Loans

702.02A Definition

A Mortgage Loan is considered a Secondary Risk Mortgage Loan when all losses incurred on such Mortgage Loan are contractually borne by the Lender until the Lender's specified recourse obligation is deemed exhausted. This obligation to bear all losses is sometimes referred to as a "Top Loss" obligation. Because Secondary Risk Mortgage Loans will convert to Primary Risk Mortgage Loans upon the deemed exhaustion of the Lender's obligation, Fannie Mae and the Servicer must work together to accurately track amounts for any losses that may have occurred.

702.02B Lender is Special Servicer

For all Secondary Risk Mortgage Loans, the Lender, or its approved contract servicer, will be the Special Servicer. The Special Servicer will be required to submit to Fannie Mae a Servicer Workout Action Template ("SWAT") (Form 4810) for all Secondary Risk Mortgage Loans as more particularly provided in Part V, Chapter 7: Non-Performing Mortgage Loans, Section 708.02: Servicer Workout Action Template ("SWAT").



702.02C Deemed Exhaustion of Recourse Obligation

When the cumulative approved realized losses plus Potential Losses under a [Secondary Risk Lender Contract](#) equal or exceed 90% of the [Lender's](#) recourse obligation under that [Contract](#), the [Lender's](#) recourse obligation under the [Contract](#) will be deemed to be exhausted and the remaining [Mortgage Loans](#) serviced under that [Contract](#) will be deemed to be [Primary Risk Mortgage Loans](#). Fannie Mae will provide notice in writing to the [Servicer](#) at the time of such re-designation. Re-designation of a [Mortgage Loan](#) from [Secondary Risk](#) to [Primary Risk](#) does not relieve the [Lender](#) of its remaining recourse obligation.

Fannie Mae's estimate of Potential Losses will be calculated as follows:

- the value of each [Property](#) (as provided below) securing all then-delinquent [Mortgage Loans](#), less
- the [UPB](#) of all then-delinquent [Mortgage Loans](#), plus
- estimated expenses to pursue a foreclosure [Course of Action](#) for all then-delinquent [Mortgage Loans](#).

The value of the [Property](#) shall be calculated as follows:

- 90% of the [Property](#) value of each [Property](#) securing each such delinquent [Mortgage Loan](#) if the value is established by an appraisal or broker's opinion of value dated six (6) months or less prior to incurring the Potential Loss, or
- 60% of the most recent [Property](#) value of each [Property](#) securing each such delinquent [Mortgage Loan](#) if the value is established by an appraisal or broker's opinion of value dated more than six (6) months prior to incurring the Potential Loss.

702.03 Primary Risk Mortgage Loans Defined

702.03A Definition

A [Mortgage Loan](#) is considered a [Primary Risk Mortgage Loan](#) when Fannie Mae bears all losses on the [Mortgage Loan](#) or when the [Lender](#) and Fannie Mae share the losses on the [Mortgage Loan](#). All [Mortgage Loans](#) delivered under the [DUS](#) and Aggregation product lines and certain other [Mortgage Loans](#) where Fannie Mae either bears all the risk of loss or shares in a portion of the risk of loss are [Primary Risk Mortgage Loans](#).



702.03B Fannie Mae is Special Servicer

For all [Primary Risk Mortgage Loans](#), Fannie Mae, or its contract servicer, will be the [Special Servicer](#).

Section 703 Mortgage Loan Defaults

703.01 Anticipatory Defaults

When a [Borrower](#) indicates to the [Servicer](#) that it is no longer willing or able to continue to make its debt service or other payment obligations as required by the [Loan Documents](#) or to perform acts that are required by the [Loan Documents](#), the [Servicer](#) must notify its [Fannie Mae Representative](#) immediately. The [Servicer](#) and Fannie Mae will determine whether such future non-performance is inevitable and whether to treat such a potential breach as immediate and, if repudiatory, to seek immediate relief.

703.02 Performance Defaults

703.02A Failure of Borrower to Perform

The [Loan Documents](#) will provide acts of the [Borrower](#) that are required to be performed, the failure of which may be designated as an event of default. There may be grace periods for curing such a default. The [Servicer](#) must provide written notice of the default to Fannie Mae and to the [Borrower](#) as required in the [Loan Documents](#). The [Servicer](#) must diligently pursue the [Borrower's](#) cure thereof within the time permitted. If the [Borrower](#) fails to cure the default within the time provided in the [Loan Documents](#) to effect such a cure, a [Performance Default](#) has occurred. Depending on the severity of the [Performance Default](#), Fannie Mae may permit the [Servicer](#) to monitor the default per [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 703.02C: Lender Tenders for Minor or Immaterial Defaults](#).

703.02B Service of Process

Often, the [Lender](#), [Servicer](#), or Fannie Mae become aware of a [Performance Default](#) through receipt of a complaint, petition, or similar legal document in connection with a lawsuit. While the [Servicer](#) has the duty to provide notices of default to the [Borrower](#), neither the [Lender](#) nor the [Servicer](#) is authorized to accept service of process on behalf of Fannie Mae. Fannie Mae's Legal Department in Washington, DC must accept service of process for Fannie Mae related to any [Mortgage Loan](#) or [Property](#).



703.02C Lender Tenders for Minor or Immaterial Defaults

1. Primary Risk Mortgage Loans

In some instances, for minor or relatively immaterial defaults (like materialmen and mechanics' liens) on [Primary Risk Mortgage Loans](#), Fannie Mae will elect to tender the [Performance Default](#) to the [Servicer](#) to monitor, engage legal counsel as necessary, and otherwise protect Fannie Mae's security interest in the [Property](#). These "Lender Tenders" will be monitored and special serviced by the [Servicer](#) using its customary standard of care for similar [Performance Defaults](#) in its own portfolio.

2. Secondary Risk Mortgage Loans

For [Secondary Risk Mortgage Loans](#), all of the monitoring and special servicing activities for minor or relatively immaterial defaults will be performed by the [Servicer](#).

3. Lender Tenders Not Subject to Requirements of this Chapter

Lender Tenders are not subject to the terms of this Chapter.

703.03 Monetary or Payment Defaults

Payments under the [Note](#) evidencing the [Mortgage Loan](#) are due on the first day of the month or such other date as may be specified in the [Note](#). Typically, there is no grace period for making payments and payments made after the scheduled due date are past due even if late charges do not attach until some days later. If the [Borrower](#) fails to pay monies when due, whether the obligation arises under the [Note](#) or other [Loan Document](#), a [Monetary or Payment Default](#) has occurred.

703.04 Date of Default

703.04A Definition of Date of Default

The [Date of Default](#) is the date of the initial [Payment Default](#) or [Performance Default](#).

703.04B Definition of Non-Performing Mortgage Loan

After the [Date of Default](#) and until the default is cured, the [Mortgage Loan](#) is considered a "Non-Performing Mortgage Loan."

703.04C Partial Payments by Borrower Do Not Change Date of Default

For purposes of computing the time period for initiating the



Dual Track Approach and electing a [Course of Action](#) as described in this Chapter, partial payments made by the [Borrower](#) for monies due under the [Note](#) or other [Loan Document](#) does not advance forward the [Date of Default](#). The last paid installment ("LPI") is the accounting term for indicating the due date of the last payment received. Partial payments may be received over time that advance the LPI date, but the [Date of Default](#) of the initial [Payment Default](#) or [Performance Default](#) will not change.

Per [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 704.02: Partial Payments; Late Payments](#), before the [Servicer](#) is permitted to apply any partial payment to advance the LPI date, the [Servicer](#) must first obtain direction from [Fannie Mae Special Asset Management](#). [Fannie Mae](#) may, at its option, require the [Servicer](#) to hold all such partial payments in suspense and not advance the LPI date until the [Borrower](#) has paid all amounts necessary to cure all [Payment Defaults](#).

703.05 Late Charges and Default Interest

703.05A Timing for Imposition of Late Charges and Default Interest

The imposition of late charges and default interest must be made in accordance with the amounts and at such time as specified in the [Note](#) or other [Loan Document](#).

703.05B Late Charges and Default Interest

1. Late Charges

Unless otherwise provided in the [Lender Contract](#), all late charges are wholly retained by the [Servicer](#). Any decision to waive the collection of late charges payable to the [Servicer](#) rests with the [Servicer](#).

2. Default Interest

Unless the [Lender's Contract](#) specifies otherwise, so long as the [Servicer](#) is making [Delinquency Advances](#), the [Servicer](#) is entitled to retain that portion of the [Mortgage Loan](#) interest rate charged to the [Borrower](#) that is attributable to the default and intended to be added to the stated [Mortgage Loan](#) interest rate. If the [Servicer](#) is not making [Delinquency Advances](#), no amount of the default interest component may be retained by the [Servicer](#). Without regard to whether the [Servicer](#) is making [Delinquency Advances](#), [Fannie Mae](#) is always entitled to the interest that accrues at the stated [Mortgage Loan](#) interest rate.



703.05C No Deduction for Late Charges or Default Interest

Late charges and default interest may not be deducted by the **Servicer** from the **Borrower's P&I** payments, **T&I** deposits, or **Collateral Agreement** deposits.

703.05D Enforceability of Late Charges and Default Interest

The enforceability of late charges and default interest may depend on the law in the **Property** jurisdiction. The **Servicer** must determine, based on the facts and circumstances of any transaction and their legal counsel's advice, whether any such charges are enforceable in the **Property** jurisdiction prior to making demand.

Section 704 Notice of Default; Reservation of Rights

704.01 Notice of Default

704.01A Notice to Fannie Mae of Payment Default

Using the Multifamily Delinquency System, the **Servicer** must advise Fannie Mae of a **Payment Default** or a **Performance Default** on or before the 17th day of the month (or on the next **Business Day** if the 17th is not a **Business Day**) in which the **Payment Default** occurs or is discovered.

704.01B Notice to Fannie Mae of Performance Default

By written notice to its **Fannie Mae Representative** (**Multifamily Loss Mitigation for Primary Risk Mortgage Loans**, and **Maturity Management Top Loss for Secondary Risk Mortgage Loans**), the **Servicer** must advise Fannie Mae of certain **Performance Defaults** as provided in this Section. Notice of a **Performance Default** must be given to Fannie Mae:

- within five (5) days after the **Servicer** becomes aware of the **Performance Default**; or
- if the **Loan Documents** permit a cure period after the **Borrower** receives written notice of its default or failure to perform any act under the **Loan Documents**, then within five (5) days after the **Borrower's** cure period has expired and a **Performance Default** has occurred. The **Servicer** shall provide any such notice of the **Performance Default** to the **Borrower** per **Part V, Chapter 7: Non-Performing Mortgage Loans, Section 703.02: Performance Defaults**.



If the Borrower's default or failure to perform any act under the Loan Documents has been excused by a waiver given by the Servicer (if permitted pursuant to this Guide) or by Fannie Mae, such default or non-performance is not considered a Performance Default.

After having given Fannie Mae notice of a Performance Default, the Servicer should provide updates at least monthly to its Fannie Mae Representative, to advise of status of the default and the steps being taken by the borrower to cure the Performance Default.

704.01C Types of Performance Defaults

The following Performance Defaults must be reported by the Servicer, as provided in this Section; however, to the extent the Servicer believes that a Performance Default not listed below is material to the Borrower's ability to perform under the Mortgage Loan, or the value of the Mortgage Loan or the Property, the Servicer should report that Performance Default as well:

1. Unauthorized Transfers

To the extent not approved in accordance with Part V, Chapter 4: Asset Management: Loan Document Administration, Section 418: Credit Enhancement Mortgage Loans and Multifamily Affordable Housing Properties, any transfers identified as a Transfer/Assumption in Part V, Chapter 4: Asset Management: Loan Document Administration, Section 418: Credit Enhancement Mortgage Loans and Multifamily Affordable Housing Properties, unless such type of transfer is permitted under the applicable Loan Agreement or Security Instrument for the Mortgage Loan.

2. Completion/Repair Defaults

The Borrower's failure to complete required repairs in the aggregate in excess of the lesser of \$50,000 or 10% of current UPB under a Loan Agreement, a Completion/Repair Agreement, a Replacement Reserve and Security Agreement, or any other Loan Document or agreement binding upon the Borrower.

3. Mechanics', Materialman's or Judgment Liens

The Borrower's failure to release or bond off a mechanics', materialman's or judgment lien that has been filed against the Property.

4. Failure to Maintain Insurance

The Borrower's failure to maintain all insurance coverages as required by Part II, Chapter 5: Property and Liability Insurance and the applicable Loan Agreement or Security Instrument for the Mortgage Loan.



5. Failure to Maintain the Property

The Borrower's failure to maintain the Property as required by the applicable Loan Agreement or Security Instrument for the Mortgage Loan, as evidenced by outstanding code violations or municipal code enforcement actions pending against the Property for immediately hazardous conditions (such as inadequate fire exits, rodents, lead-based paint, lack of heat, hot water, electricity, or gas, etc.), uninhabitable units on the Property, the failure to promptly make repairs to the Property following a casualty loss, demolition of Improvements on the Property, or waste or abandonment of the Property or its Improvements. For purposes of reporting under Part V, Chapter 7: Non-Performing Mortgage Loans, Section 704.01: Notice of Default, "uninhabitable units" do not include a unit where a tenant has vacated and the unit is being made ready, so long as the Borrower is promptly addressing the condition of the vacated unit and in the process of making it ready for leasing.

6. Change in Use

The Borrower's alteration of the Property or change in use, unit mix or other characteristics of the Property, or converting any individual dwelling unit to commercial use, or initiating or acquiescing to a change in the zoning classification of the Property, or establishing any condominium or cooperative regime with respect to the Property, or subdividing the Property, without Fannie Mae approval as required by the Loan Documents.

7. Environmental Conditions

The Borrower's failure to comply with its Operations and Maintenance ("O&M") Agreement for the Property, or the existence of any environmentally hazardous materials that would constitute a Prohibited Activity or Condition under the Loan Agreement, Security Instrument, or other Loan Documents.

8. Noncompliance with Laws

Any violation of laws, ordinances or regulations by the Borrower and/or the Property, as required by Part V, Chapter 3: Custodial Accounts, Section 301.04: Investments and Interest.

9. Other Default Reporting

Any other required default reporting.

704.01D Contact with Borrower

The Servicer must contact the Borrower as provided in this



Chapter to determine why the payment has not been made and whether the payment will be made before the end of the month. The **Servicer** must continue to update the Multifamily Delinquency System on its discussions with the **Borrower** until the **Mortgage Loan** has been transferred to the **Special Servicer** (either Fannie Mae for **Primary Risk Mortgage Loans**, or the **Servicer's** special servicing area for **Secondary Risk Mortgage Loans**).

704.01E Pre-Negotiation Letter

1. Execution

Prior to entering into any discussions with a **Borrower** regarding an anticipatory default (per **Part V, Chapter 7: Non-Performing Mortgage Loans, Section 703.01: Anticipatory Defaults**) or after the **Mortgage Loan** has been transferred to the **Special Servicer** and prior to any further discussions with the **Borrower** regarding the **Non-Performing Mortgage Loan** and possible resolution of the default, the **Borrower**, Fannie Mae (if a **Primary Risk Mortgage Loan**), the **Servicer** (if a **Secondary Risk Mortgage Loan**) or the **Lender** (if the **Lender** has loss sharing and is not also the **Servicer**) must execute and send to the **Borrower** a written Pre-Negotiation Form Letter (NOI and Loan Document Provisions) (**Form 4811**) or Pre-Negotiation Form Letter (**Form 4812**).

2. Purpose of Pre-Negotiation Letter

The purpose of the Pre-Negotiation Letter is for all parties to acknowledge in writing that any discussions relating to resolution of the default are not binding on any party until the discussions are documented in a written agreement executed by all parties. Use of the Pre-Negotiation Letter minimizes the risk of a liability claim against Fannie Mae or the **Servicer** that the **Borrower** acted in reliance on a verbal representation by Fannie Mae or the **Servicer**.

704.02 Partial Payments; Late Payments

704.02A Partial Payments

If the **Borrower** makes a partial payment, within five (5) business days after receipt of the partial payment the **Servicer** must send a letter to the **Borrower**, under the **Servicer's** letterhead, the Multifamily Partial Payment Letter – Fees (Optional) Assessed (**Form 4806**).

704.02B Late Partial Payment

If the **Borrower** makes a late and partial payment, within five (5)



business days after receipt of the late and partial payment the **Servicer** must send to the **Borrower**, under the **Servicer's** letterhead, the Multifamily Partial Payment Letter – Fees (Optional) Assessed (Form 4806).

704.02C Full Payment After Expiration of Period Before Assessing Late Charges

If the **Borrower** makes a full payment after the date late charges are assessed, upon receipt of such payment the **Servicer** must send within five (5) business days the **Borrower**, under its letterhead, the Multifamily Late Payment Letter – Fees (Optional) Assessed (Form 4805).

If the amount of the payment received from the **Borrower** is not sufficient to cure all Monetary Defaults, the **Servicer** shall obtain direction from Fannie Mae **Special Asset Management** prior to applying the amount to past-due payments and advancing the **LPI** date. Fannie Mae may, at its option, require the **Servicer** to hold any such payments received in suspense until the **Borrower** has paid all amounts necessary to cure all Monetary Defaults.

704.02D Application of Partial Payments

If the amount of the payment received from the **Borrower** is not sufficient to cure all Monetary Defaults, the **Servicer** shall obtain direction from Fannie Mae **Special Asset Management** prior to applying the amount to past-due payments and advancing the **LPI** date. Fannie Mae may, at its option, require the **Servicer** to hold any such payments received in suspense until the **Borrower** has paid all amounts necessary to cure all Monetary Defaults.

704.02E Failure to Make Any Payment

If the **Borrower** fails to make any payment at all, within five (5) business days following the date late charges are incurred the **Servicer** must send to the **Borrower**, under the **Servicer's** letterhead, the Multifamily No Payment Received Letter – Fees (Optional) Assessed (Form 4807).

704.02F Copies of Letters Sent to Borrower; Correspondence with Borrower

The **Servicer** must send to its **Fannie Mae Representative** a copy of any letter sent to the **Borrower** pursuant to this Chapter at the same time as it sends such letter to the **Borrower**. After outside counsel is engaged, any correspondence with the **Borrower** related to the **Payment Default** or **Performance Default**, or the **Course of Action**, must be made by or through the outside counsel.



Section 705 Capital Repairs and Protection of Property and Property Income

705.01 Funding Capital Repairs During Default Resolution

705.01A Generally

It is not unusual for a **Property** securing a **Non-Performing Mortgage Loan** to be in need of repairs during the default resolution process. Generally, a **Payment Default** or a **Performance Default** will result in a default under the **Collateral Agreements for Replacement Reserves, Operating Deficit, Completion/Repairs**, or other **Collateral Agreements**. When the **Borrower** is in default under a **Collateral Agreement**, the **Special Servicer** has discretion in applying the reserves or **Letter of Credit** proceeds either to repairs or replacements or to the payment of amounts due and owing to Fannie Mae under the **Loan Documents**.

1. Primary Risk Mortgage Loans

As part of its **Asset Review for Primary Risk Mortgage Loans**, as provided in this Chapter, the **Servicer** must advise Fannie Mae **Special Asset Management** of the type of repairs or replacements that are necessary and recommend whether the repairs should be funded from the **Collateral Agreement** funds. It is Fannie Mae's decision whether or not to accept the recommendation and use the funds for repairs or replacements for **Primary Risk Mortgage Loans**.

2. Secondary Risk Mortgage Loans

For **Secondary Risk Mortgage Loans**, the **Lender** must provide a **SWAT** describing the actions it intends to take to ensure the repair of the **Property** and to prevent further **Property** deterioration. The decision whether or not to use **Collateral Agreement** funds for repairs or replacements is the **Special Servicer's**. When making the decision whether to use the **Collateral Agreement** funds for repairs or replacements, the level of cooperation from the **Borrower** and remitting the monthly net operating income must be a factor to consider.

705.01B Health and Safety Repairs

If in inspecting the **Property** securing the **Non-Performing Mortgage Loan**, it is apparent that the **Borrower** is not making repairs related to the health and safety of the tenants or is allowing the physical condition of the **Property** to deteriorate, then:

- for **Primary Risk Mortgage Loans**, the **Servicer** must



immediately notify Fannie Mae Special Asset Management and, if the Mortgage Loan has been transferred to Fannie Mae Special Asset Management for special servicing, Fannie Mae may elect to engage outside counsel to pursue the court appointment of a receiver, as well as enforce other rights and remedies; or

- for Secondary Risk Mortgage Loans, the Lender must provide a SWAT describing the actions it intends to take to ensure the repair of the Property and to prevent further Property deterioration.

THE SERVICER MUST NOT ATTEMPT TO MAKE THE REPAIRS, HIRE CONTRACTORS TO MAKE THE REPAIRS, OR OTHERWISE TAKE ANY ACTION THAT COULD RESULT IN A MORTGAGEE-IN-POSSESSION STATUS.

705.02 Protection of Property Income

For all Non-Performing Mortgage Loans, if the Borrower is not accounting for and paying to the Servicer the monthly net operating income from the Property after the Date of Default, then:

- for all Primary Risk Mortgage Loans the Servicer must notify Fannie Mae Special Asset Management as part of the Asset Review or otherwise; or
- for all Secondary Risk Mortgage Loans, the Special Servicer must provide in the SWAT the actions it intends to take to obtain control of the net operating income.

705.03 Property Management Changes

705.03A Primary Risk Mortgage Loans

For Primary Risk Mortgage Loans, any proposed changes in the property management for Property securing a Non-Performing Mortgage Loan must be approved in writing by Fannie Mae Special Asset Management.

705.03B Secondary Risk Mortgage Loans

For Secondary Risk Mortgage Loans, the recommendation to change the property management for Property securing a Non-Performing Mortgage Loan must be included in the SWAT.



705.03C Approval Decision Criteria and Timing

The decision to approve the replacement property management must focus on, among other customary underwriting criteria, identifying conflicts of interest between the proposed Property Manager and Fannie Mae, as well as evaluating the Property Manager's ability to maintain the [Property's](#) physical condition and improve operating income.

Fannie Mae will communicate its approval or rejection of the proposed replacement of the property management within thirty (30) days after receipt from the [Servicer](#) of all information necessary to render its decision. Fannie Mae's approval may be conditioned upon receiving additional documentation or the satisfaction of additional requirements. If Fannie Mae has not approved or conditionally approved the proposed replacement property management within thirty (30) days after the [Servicer's](#) request, the proposed change in property management will be deemed to be denied by Fannie Mae.

705.03D Documenting the Property Management Change

Unless the change in property management is through a court-appointed receiver, the [Servicer](#) must send an original Assignment of Management Agreement ([Form 4508](#)) for the proposed new property management company executed by the [Borrower](#) and information regarding the new property management company to Fannie Mae [Special Asset Management](#) to effect a change in [Property](#) management.

Section 706 Reinstatement; Calculation of Payoff Amount

706.01 Reinstatement

706.01A Primary Risk Mortgage Loans

For [Primary Risk Mortgage Loans](#), if the [Borrower](#) offers to reinstate a [Non-Performing Mortgage Loan](#) at any time after the [Mortgage Loan](#) has been transferred to Fannie Mae [Special Asset Management](#), the [Servicer](#) must notify Fannie Mae [Special Asset Management](#) in writing. Fannie Mae will make the determination of whether to allow reinstatement of the [Non-Performing Mortgage Loan](#).

706.01B Secondary Risk Mortgage Loans

For [Secondary Risk Mortgage Loans](#), if the [Borrower](#) offers to reinstate a [Non-Performing Mortgage Loan](#) at any time after a SWAT



has been provided to Fannie Mae, the **Servicer** (if not the **Lender** with the risk of loss) will notify the **Lender** in writing and the **Lender** will make the determination of whether to allow reinstatement, subject to applicable law, and provide an updated SWAT to Fannie Mae.

706.02 Calculation of Payoff Amount

For either **Primary Risk Mortgage Loans** or **Secondary Risk Mortgage Loans**, if in the course of performing loss mitigation actions the **Special Servicer** requires a computation of the payoff amount for the **Mortgage Loan** (e.g., for a demand letter to **Borrower** after acceleration, preparation of litigation pleadings for foreclosure judgment or deficiency suit, determination of foreclosure bid, etc.), the **Servicer** shall calculate the full payoff amount and submit it for Fannie Mae's confirmation in accordance with **Part V, Chapter 2: Reporting and Remitting, Section 214.03: Calculating and Obtaining Confirmation of Payoff Amount**. In those instances, if there is not an actual payoff of the **Nonperforming Mortgage Loan** expected, the anticipated foreclosure date or the "as of" date for the payoff shall be used as the "payoff date" in the calculation. In addition, the **Servicer's** request for verification of the payoff amount must be submitted to Fannie Mae for confirmation at least two (2) business days before such payoff amount is needed by the **Special Servicer** or outside counsel for its demand letter, litigation pleadings, or other use.

Section 707 Non-Performing Primary Risk Mortgage Loans – Transfers to Fannie Mae Special Asset Management

707.01 Transfer to Special Servicing

At any time during the first 60 days after the **Date of Default**, a **Non-Performing Primary Risk Mortgage Loan** may be transferred to Fannie Mae **Special Asset Management**, to be the **Special Servicer**, if the **Servicer** or Fannie Mae determines that the **Borrower** is either not cooperating with attempts to resolve the default or it becomes apparent the **Borrower** will not be able to cure the default. Fannie Mae reserves the right to require any **Non-Performing Primary Risk Mortgage Loan** be transferred to Fannie Mae **Special Asset Management** prior to the 60th day after the **Date of Default**.

Any **Non-Performing Primary Risk Mortgage Loan** not previously transferred to Fannie Mae, as the **Special Servicer**, must be transferred to Fannie Mae **Special Asset Management** no later than the 60th day after the **Date of Default**.



707.02 Asset Review

At the time of the transfer of the **Non-Performing Primary Risk Mortgage Loan** to Fannie Mae for special servicing, in addition to the **Servicing Transfer Memo** prepared by the **Servicer** in accordance with Part V, Chapter 7: **Non-Performing Mortgage Loans, Section 709.02: Servicing Transfer Memo**, the assigned asset manager for Fannie Mae **Special Asset Management** and the appropriate representatives of the **Servicer** will engage in a discussion to determine what documents or additional due diligence may be required to review the status of the **Non-Performing Mortgage Loan** or the **Property**. This **Asset Review** may include:

- the delivery of copies of the **Loan Documents** to Fannie Mae;
- the review of the third-party reports obtained by the **Lender** prior to the origination of the **Mortgage Loan**;
- the review of the Underwriter's Narrative, the Transaction Approval Memo or other underwriting analyses and materials of the **Lender** related to the **Non-Performing Mortgage Loan**;
- the review of various other third-party reports, analyses, studies, proposals or other documents obtained by Fannie Mae or the **Servicer** subsequent to the origination of the **Non-Performing Mortgage Loan**;
- obtaining additional third-party reports (including **Property appraisal, environmental study or PCA**), studies or proposals; or other documents or due diligence related to the **Non-Performing Mortgage Loan**; or
- assessing the **Borrower** or **Key Principal's** financial condition, the operations of the **Property**, or the current market value and condition of the **Property**.

Section 708

Non-Performing Secondary Risk Mortgage Loans – Special Servicing

708.01 Servicer Performs Loss Mitigation Actions

For **Secondary Risk Mortgage Loans**, the **Lender** shall be the **Special Servicer** to perform all approved loss mitigation actions to be taken under the Dual Track Approach as described in this Chapter, including selecting and implementing a **Course of Action** for resolution



of the Non-Performing Mortgage Loan.

708.02 Servicer Workout Action Template (“SWAT”)

708.02A Delivery of SWAT

The Special Servicer must submit to Fannie Mae Special Asset Management a SWAT for review and approval not later than:

- 60 days after the Date of Default for any Payment Default; or
- 15 days after the Maturity Date if the Borrower fails to pay off the Mortgage Loan on or before the Maturity Date.

It is expected that the Special Servicer has collected the necessary data and documentation to prepare its loss mitigation plan for the Non-Performing Mortgage Loan and selected a Course of Action prior to submission of its SWAT.

708.02B Purpose of SWAT

The purpose for the SWAT is to ascertain Potential Losses associated with the Non-Performing Mortgage Loan and the impact to the Lender's recourse obligation. The SWAT communicates to Fannie Mae the Lender's selected Course of Action, the underlying collateral value (which may be the Special Servicer's estimate or a broker's opinion of value, prior to obtaining an appraisal), operations and physical condition of the Property, financial condition of the Borrower, and loss mitigation actions proposed to be taken by the Special Servicer. Additionally, the SWAT specifies an anticipated resolution date, the anticipated resolution costs, and, if foreclosure is the selected Course of Action, the timing for the Lender's purchase of the Mortgage Loan from Fannie Mae, as provided in this Chapter.

708.02C Contents of SWAT

The SWAT submission must include:

- a copy of the Note;
- a copy of the recorded Security Instrument; and
- a copy of the recorded Assignment of Security Instrument to Fannie Mae. If the Assignment has not been recorded, the Servicer must, within five (5) Business Days after delivery of the SWAT to Fannie Mae Special Asset Management either:



- repurchase the [Mortgage Loan](#) from Fannie Mae in accordance with this Chapter; or
- record the original Assignment and deliver to Fannie Mae a file-stamped copy of the recorded Assignment.

In addition, if foreclosure is the selected [Course of Action](#), the SWAT must include justification for a bid at the foreclosure sale that is less than an amount calculated as follows:

- the actual [UPB](#) of the [Mortgage Loan](#);
- accrued interest, plus default interest, to the date of foreclosure sale;
- sums advanced pursuant to the [Security Instrument](#) (e.g., taxes, legal costs and fees, etc.);
- the Yield Maintenance or [Prepayment Premium](#); and
- accrued late charges;

Less the following amounts:

- funds held by the [Servicer](#) for taxes and insurance deposits, and [Collateral Agreement](#) deposits;
- funds collected or received as rents or net operating income; and
- proceeds from any insurance loss settlement.

708.02D Fannie Mae Approves SWAT

If Fannie Mae approves the SWAT, the [Special Servicer](#) will be granted a limited power of attorney to take all actions on behalf of Fannie Mae, as the noteholder and record lien holder, in accordance with the approved SWAT. In addition, if the [Special Servicer](#) or its legal counsel determines that, with respect to a specific [Non-Performing Mortgage Loan](#), a waiver of actions otherwise required in this Chapter is required by local law or a waiver will result in a more effective default resolution, then the [Special Servicer](#) must document the appropriate action through the SWAT.

708.02E Fannie Mae does not Approve SWAT

If Fannie Mae and the [Special Servicer](#) are not in agreement with the recommended [Course of Action](#) and the SWAT is not approved



by Fannie Mae:

- the Lender may purchase the Non-Performing Mortgage Loan from Fannie Mae without expectation or ability to utilize the Lender's recourse obligation, as provided in this Chapter; or
- Fannie Mae may select or implement a Course of Action of its choosing. In such an event, the Lender must reimburse Fannie Mae, within one (1) month following written demand with supporting documentation of the amounts expended, for all costs incurred by Fannie Mae in connection with its implementation of the Course of Action. Fannie Mae may require settlement of any claims at any time before completion of the Course of Action, based on a valuation process and reasonable estimates of its future costs. All sums paid by Lender pursuant to this provision shall not be deemed Actual Losses and shall not be reimbursed to Lender or credited against the Lender's recourse obligation.

708.02F Updating SWAT

It is essential for the Special Servicer and Fannie Mae to have open and timely communication throughout the SWAT process. Therefore, all SWATs must be updated and resubmitted to Fannie Mae Special Asset Management until final disposition of the Non-Performing Mortgage Loan at the following intervals:

- within three (3) Business Days after the Special Servicer's receipt of new information impacting the approved SWAT that changes its elected Course of Action, including granting any forbearance, changing any listing prices or sales strategies for the Property;
- at least ten (10) Business Days prior to a Non-Performing Mortgage Loan repurchase by Lender in accordance with this Chapter;
- at least five (5) Business Days prior to foreclosure sale, with a foreclosure strategy and bid justification to be determined as provided above in this Chapter;
- at least five (5) Business Days prior to the execution of any purchase and sale agreement for the Property; and
- at least every six (6) months after the initial SWAT



submission even if no changes have been made.

708.02G Failure to Timely Deliver SWAT

If Fannie Mae notifies the **Special Servicer** that it has failed to submit a SWAT in accordance with this Section, the **Special Servicer** must prepare and submit the SWAT within fifteen (15) **Business Days** following Fannie Mae's notification. Any continued failure to submit a required SWAT may result in Fannie Mae selecting or implementing a **Course of Action** of its choosing. In such an event, within one (1) month following written demand with supporting documentation of the amounts expended, the **Lender** must reimburse Fannie Mae for all costs incurred by Fannie Mae in connection with its implementation of the **Course of Action**. Fannie Mae may require settlement of any claims at any time before completion of the **Course of Action**, based on a valuation process and reasonable estimates of its future costs. All sums paid by **Lender** pursuant to this provision shall not be deemed **Actual Losses** and shall not be reimbursed to **Lender** or credited against the **Lender's** recourse obligation.

708.02H No Credit Against Recourse

No credit against a **Lender's** recourse obligation will be given without an approved SWAT.

Section 709 Special Servicing of Primary Risk Mortgage Loans

709.01 Fannie Mae Performs Loss Mitigation Actions

For all **Non-Performing Primary Risk Mortgage Loans**, Fannie Mae or its contracted third-party special servicer shall be the **Special Servicer** and will make all decisions regarding loss mitigation and actions to be taken under the Dual Track Approach, including selecting and implementing a **Course of Action**. Therefore, the **Servicer** must remain in close contact with Fannie Mae **Special Asset Management** or the contracted third-party special servicer regarding all **Primary Risk Mortgage Loans**. Because of the loss sharing between Fannie Mae and the **Lender**, Fannie Mae or its contracted third-party special servicer will:

- provide the **Lender** with copies of correspondence and pleadings related its loss mitigation;
- include the **Lender** in discussions regarding the selection and implementation of the **Course of Action**; and



- provide the Lender with regular updates regarding the status of the Non-Performing Primary Risk Mortgage Loan.

Notwithstanding the foregoing, if the Lender or any of its subsidiaries or affiliates holds any equity interest in the Borrower (either as a direct investment or as a mezzanine lender), any correspondence or communications will not be given to the Lender regarding the Non-Performing Primary Risk Mortgage Loan, other than copies of any correspondence required to be given to the Borrower.

Fannie Mae Special Asset Management or its contracted third-party special servicer will be the Servicer's primary point of contact during default resolution. While Fannie Mae or its contracted third-party special servicer will make all decisions on Primary Risk Mortgage Loans, including application of payments, handling of reserves, and reinstatement of the Mortgage Loan, the Servicer must comply with those determinations as part of its servicing duties. If a Servicer takes any action on a Non-Performing Primary Risk Mortgage Loan without the prior approval of Fannie Mae or its contracted third-party special servicer, such action will constitute a breach of the Servicer's obligations to Fannie Mae.

709.02 Servicing Transfer Memo

The Dual Track Approach requires a more formal relationship with the Borrower during the default resolution process. The Servicer and Fannie Mae must work together to collect the data and documentation needed to engage counsel and commence foreclosure proceedings. The Servicer is required to prepare a Servicing Transfer Memo (Form 4808). The Servicing Transfer Memo must be timely completed by the Servicer and delivered to Fannie Mae per Part V, Chapter 7: Non-Performing Mortgage Loans, Section 707.01: Transfer to Special Servicing. Following the transfer of the Non-Performing Mortgage Loan to Fannie Mae, the Servicer must have no conversations or communication with the Borrower regarding the defaults, the Property condition, possible workouts or reinstatement, or other matters typically handled by the Special Servicer.

Section 710 Engagement of Legal Counsel

710.01 Fannie Mae Retains Legal Counsel

All legal counsel, whether for Primary Risk Mortgage Loans or Secondary Risk Mortgage Loans, must be retained by Fannie Mae. An Engagement of Counsel Letter will be used to document the contractual



engagement and a copy will be provided to the [Servicer](#) and [Special Servicer](#).

710.02 Primary Risk Mortgage Loans

For [Primary Risk Mortgage Loans](#), Fannie Mae will refer the matter to legal counsel in the [Property](#) jurisdiction. The legal counsel will provide copies of all correspondence, pleadings and documents to the [Servicer](#), the [Lender](#) (if different from the [Servicer](#)) and Fannie Mae, unless Fannie Mae's attorney-client privilege requires otherwise. Neither the [Lender](#) nor the [Servicer](#) (if different from the [Lender](#)) is permitted to have any conversations with legal counsel on [Primary Risk Mortgage Loans](#), without also including a representative of Fannie Mae's [Special Asset Management](#).

710.03 Secondary Risk Mortgage Loans

For [Secondary Risk Mortgage Loans](#), the [Special Servicer](#) must refer the matter to Fannie Mae's legal counsel in the [Property](#) jurisdiction pursuant to the approved SWAT. Fannie Mae will provide a listing of legal counsel on retainer with Fannie Mae in the [Property](#) jurisdiction for the [Special Servicer's](#) choice or Fannie Mae will provide a recommendation to the [Special Servicer](#) based upon the nature of the default and other facts unique to the [Non-Performing Mortgage Loan](#). Prompt completion and approval of the SWAT will give legal counsel sufficient time to complete its conflicts check and to begin the foreclosure process as described in this Chapter by commencing legal action to enforce the assignment of rents and initiating a foreclosure action. The legal counsel will provide copies of all correspondence, pleadings and documents to both the [Lender](#) and Fannie Mae, unless Fannie Mae's attorney-client privilege requires otherwise. For [Secondary Risk Mortgage Loans](#), legal counsel will provide its invoices for fees and expenses to the [Special Servicer](#) for payment.

710.04 Payment of Legal Counsel Fees

710.04A Primary Risk Mortgage Loans

Fannie Mae will pay all legal counsel fees for [Primary Risk Mortgage Loans](#), which counsel fees will be included in the calculation of final settlement of loss. If the [Lender](#) or [Servicer](#) chooses to retain separate legal counsel on [Primary Risk Mortgage Loans](#), the fees and costs of the [Lender's](#) or [Servicer's](#) legal counsel will not be included in the final settlement of loss.

710.04B Secondary Risk Mortgage Loans



For **Secondary Risk Mortgage Loans**, the **Special Servicer** shall pay all legal counsel fees; however, prior to the **Lender's** repurchase of the **Secondary Risk Mortgage Loan** as provided in this Chapter, the outside counsel represents Fannie Mae as the noteholder. Notwithstanding the payment of legal fees by the **Special Servicer**, so long as Fannie Mae is the noteholder, Fannie Mae is the client to outside counsel pursuant to the Engagement of Counsel Letter, and the payment of legal fees by the **Special Servicer** shall not be deemed to have created an attorney-client relationship between the **Special Servicer** and outside counsel. For **Secondary Risk Mortgage Loans**, the **Special Servicer** must provide Fannie Mae **Special Asset Management** with a copy of all invoices for legal services paid on behalf of Fannie Mae, and those legal counsel fees will be included in the calculation of the final settlement of loss.

Section 711 Courses of Action

711.01 Election and Implementation of a Course of Action

As described in this Chapter, Fannie Mae is the **Special Servicer** and performs all loss mitigation activities for **Primary Risk Mortgage Loans**. As such, Fannie Mae as the **Special Servicer** will elect a **Course of Action** (either jointly with the **Lender**, if applicable, or separately, depending upon the specific **Course of Action**), and implement the elected **Course of Action**. For **Secondary Risk Mortgage Loans**, the **Special Servicer** shall recommend the **Course of Action** in the Servicing Workout Action Template (“SWAT”) and, once approved by Fannie Mae, implement such **Course of Action**.

The **Courses of Action** are:

- **Lender Purchase of Mortgage Loan**, as described in **Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.02: Course of Action – Lender Purchase of Mortgage Loan**;
- **Lender Workout**, as described in **Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.03: Course of Action – Lender Workout Election**;
- **Joint Fannie Mae/Lender Workout (a “Joint Workout”)**, as described in **Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.04: Course of Action – A Joint Workout**;
- **Foreclosure**, as described in **Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.05: Course of Action - Foreclosure**; and



- Note Sale or Discounted Loan Payoff, as described in Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.06: Course of Action – Note Sale Election or Discounted Loan Payoff.

A Lender Purchase of Mortgage Loan and a Lender Workout may be exercised solely by the Lender and in the Lender's sole discretion, subject to the requirements of Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.02: Course of Action – Lender Purchase of Mortgage Loan and Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.03: Course of Action – Lender Workout Election. A Joint Workout must be agreed to jointly by Fannie Mae and the Lender, and implemented prior to the conclusion of a foreclosure, as provided in Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.04: Course of Action – A Joint Workout. A Note Sale or Discounted Loan Payoff, as an alternative to foreclosure, must also be agreed to jointly by Fannie Mae and the Lender, as provided in Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.06: Course of Action – Note Sale Election or Discounted Loan Payoff. Fannie Mae will generally follow the Dual Track Approach and, unless one of the other Courses of Action is being followed, a Foreclosure will be the applicable Course of Action.

711.02 Course of Action – Lender Purchase of Mortgage Loan

LENDER PURCHASE OF A SECURITIZED MORTGAGE LOAN IS NOT PERMITTED UNLESS THE MORTGAGE LOAN HAS BEEN DELINQUENT FOR FOUR CONSECUTIVE MONTHS. ONLY AFTER THE PASSAGE OF SUCH FOUR CONSECUTIVE MONTH DELINQUENCY PERIOD MAY THE MORTGAGE LOAN BE REMOVED FROM THE SECURITY TRUST. A DELINQUENT MORTGAGE LOAN MUST BE REMOVED FROM THE SECURITY TRUST NOT LATER THAN 24 MONTHS AFTER INITIAL DELINQUENCY.

711.02A Primary Risk Mortgage Loans

If the Non-Performing Mortgage Loan is four or more consecutive months delinquent, the Lender, at its option, may purchase the Mortgage Loan from Fannie Mae with its own funds and pursue its own course of action with respect to that Mortgage Loan.

711.02B Secondary Risk Mortgage Loans

For Secondary Risk Mortgage Loans, the Lender must



specifically indicate this [Course of Action](#) on its SWAT, which will serve as documentation of the [Lender's](#) agreement to repurchase the [Mortgage Loan](#). Neither the purchase price nor any losses incurred on a [Secondary Risk Mortgage Loan](#) repurchased by the [Lender](#) pursuant to this [Course of Action](#) will be included in any loss sharing with Fannie Mae or be credited against the [Lender's](#) recourse obligation but will be solely for the account of the [Lender](#).

711.02C Purchase Price for Mortgage Loans

For [Primary Risk Mortgage Loans](#) and [Secondary Risk Mortgage Loans](#) purchased pursuant to this Section, unless otherwise provided in the [Lender's Contract](#), the purchase or repurchase price will be equal to:

- the then unpaid actual principal balance of the [Mortgage Loan](#); plus
- interest as follows:
 - except for any [Securitized Mortgage Loan](#), interest accrued through the purchase date; or
 - for any [Securitized Mortgage Loan](#), interest for the entire month in which the purchase occurs based on the [Security Balance](#) remaining after applying the scheduled [Mortgage Loan](#) payment due on the first day of that month; plus
- any [Prepayment Premium](#) or Yield Maintenance owed to Fannie Mae as of the purchase date pursuant to the terms of the [Note](#); less
- any [Delinquency Advance](#) made, but not reimbursed either by Fannie Mae or by or on behalf of the [Borrower](#).

711.02D No Fannie Mae Approval Required

The election and implementation of this [Course of Action](#) does not require Fannie Mae's concurrence or approval as long as the [Lender](#) complies with the foregoing requirements and exercises this option prior to the foreclosure sale or the conclusion of any other [Course of Action](#).

711.02E Implementation of Course of Action

If this [Course of Action](#) is elected by the [Lender](#), then the [Lender](#) may purchase the [Non-Performing Mortgage Loan](#) by:



- giving written notice to Fannie Mae of such election, or, if a [Secondary Risk Mortgage Loan](#), indicating such election on the initial SWAT or updated SWAT, no later than 10 [Business Days](#) before the proposed purchase date, that [Lender](#) has elected to purchase the [Mortgage Loan](#) and identifying the anticipated purchase date;
- purchasing the [Mortgage Loan](#) on the identified purchase date at the purchase price as calculated in [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.02C: Purchase Price for Mortgage Loans](#);
- purchasing the [Mortgage Loan](#) in the [Lender's](#) own name or the name of an affiliate as indicated on the written notice of its election of this [Course of Action](#), and thereafter implementing its own [Course of Action](#) with respect to that [Mortgage Loan](#);
- delivering to Fannie Mae on the identified purchase date the purchase price, together with an original assignment of the [Mortgage Loan](#), in recordable form for the applicable property jurisdiction, and such other assignment documents as may be necessary to fully assign, without recourse, representation, or warranty, Fannie Mae's interest in the [Mortgage Loan](#) to the [Lender](#); and
- all documents delivered to Fannie Mae for execution shall be pursuant to [Part V, Chapter 4: Asset Management: Loan Document Administration, Section 404.01: Submission of Documents to Fannie Mae](#).

Within five [Business Days](#) following receipt from the [Lender](#) of the purchase price and the assignment, Fannie Mae will execute and return to the [Lender](#) the original assignment, together with:

- the original [Note](#) endorsed, without recourse, representation or warranty, to the [Lender](#) (or its affiliate);
- the original [Mortgage Loan](#) file; and
- such other documents as necessary to fully assign, without recourse, representation or warranty, Fannie Mae's interest in the [Mortgage Loan](#) to the [Lender](#) (or its affiliate).

711.03 Course of Action – Lender Workout Election

711.03A Lender Workout Defined



With any Non-Performing Mortgage Loan in Monetary or Payment Default, the Lender may enter into an arrangement with the Borrower in which the Lender agrees to make its own loan and advance its own funds to the Borrower to cure the defaults (a “Lender Workout”).

Examples of instances where a Lender Workout may be appropriate include:

- Property cash flow shortfall is temporary in nature;
- the Mortgage Loan becomes delinquent within the first year following the sale of the Mortgage Loan to Fannie Mae;
- the cost of the Lender Workout to the Lender may be less than the cost to the Lender of a Joint Workout or foreclosure; or
- Mortgage Loans at Loss Level II or III.

711.03B Documentation and Terms of Lender Workout

A Lender Workout must be documented as a separate loan from the Lender to the Borrower to meet the Property’s operating needs and fully cure the Monetary or Payment Default. The Lender may place whatever restrictions it deems appropriate on the disbursement and use of the funds. The Lender Workout loan may be unsecured, secured by a subordinate lien against the Property (with Fannie Mae’s prior approval), or secured by other collateral. Any subordinate lien, by its express terms, must be fully subordinated to all Mortgage Loans in favor of Fannie Mae, and must comply with the requirements for junior liens included in Parts I, II, and III. The Loan Documents evidencing the Lender Workout loan must clearly indicate that the loan does not in any way affect the status of the Mortgage Loans owned by Fannie Mae or any of Fannie Mae’s rights or remedies in connection therewith, and that the amount owed under the Lender Workout is owed only and directly to the Lender and is not added to Fannie Mae’s Mortgage Loan(s).

711.03C Lender Workout Has No Impact on Loss Sharing or Recourse Obligation

1. Primary Risk Mortgage Loans

Any sums lent by the Lender or expenses incurred by the Lender in a Lender Workout will not be included in the final settlement of loss for the Primary Risk Mortgage Loan.

2. Secondary Risk Mortgage Loans

Any losses incurred on a Secondary Risk Mortgage Loan as a



result of the Lender Workout will be the obligation of the Lender but will not be applied as a credit against the Lender's recourse obligation.

711.03D No Fannie Mae Approval Required

Before committing to a Lender Workout with the Borrower, the Lender must obtain the written approval of Fannie Mae Special Asset Management. Fannie Mae Special Asset Management will have 10 Business Days from receipt of written notice from the Lender, containing the terms of the Lender Workout to approve or disapprove the Lender Workout Course of Action. With its notice of its intention to enter into a Lender Workout, the Lender must deliver a copy of the proposed Lender Workout documents, including subordinate lien documentation, if applicable, to Fannie Mae Special Asset Management for review and approval prior to execution. The purpose of this review is to determine that:

- the Lender Workout and related documents:
 - do not modify or waive any of the terms of the Mortgage Loan(s), including the Note rate, term, or amortization;
 - do not modify or waive any of the terms of the Collateral Agreements;
 - do not limit, waive, or lessen Fannie Mae's rights, claims, or remedies under its Security Instrument including, but not limited to, obtaining a priority claim in a bankruptcy proceeding as a result of lending money to the Borrower;
 - do not prevent, or otherwise limit, Fannie Mae from enforcing its rights under the Mortgage Loan Documents in the event the Lender defaults under its workout with the Borrower; or
 - do not violate any bond documentation or Security rules, if applicable;
- the term of the Lender Workout loan does not exceed 24 months; and
- Fannie Mae is satisfied with the performance of any previous Lender Workouts and the total of all Lender Workouts does not materially impact the Lender's financial condition.

If the Non-Performing Mortgage Loan has been accelerated prior to notice of the Lender Workout, it is in Fannie Mae's sole



discretion to agree to accept less than the full payoff and reinstate the [Mortgage Loan](#).

If Fannie Mae approves the Lender Workout, the [Lender](#) must deliver a copy of the executed Lender Workout documents, including a Subordination Agreement, if applicable, to Fannie Mae [Special Asset Management](#) and to Fannie Mae Asset Acquisition and Custody. If the [Borrower](#) subsequently defaults under the [Mortgage Loan](#) after the Lender Workout, then the [Servicer](#) must follow the procedure outlined in this Chapter for a [Non-Performing Mortgage Loan](#) as if no Lender Workout occurred.

711.03E Servicer Makes Delinquency Advances But Fails to Report Mortgage Loan Delinquent

If a [Servicer](#) advances P&I payments on a [Mortgage Loan](#) with a Monetary or [Payment Default](#), but the [Mortgage Loan](#) has not been reported as delinquent on the Multifamily Delinquency System as required in this Chapter, such advances will be considered an unauthorized Lender Workout and will not be considered a [Delinquency Advance](#).

711.03F Foreclosure Process Continues Unless Otherwise Agreed to by Fannie Mae

If a Lender Workout is approved, the foreclosure process will continue until the earlier of the curing of the defaults by the Lender Workout or the foreclosure sale. If Fannie Mae approves the Lender Workout, the [Lender](#) must fully implement the Lender Workout on the approved terms, and thereby cure all defaults, prior to any scheduled foreclosure sale or the conclusion of any other [Course of Action](#) by Fannie Mae. If the Lender Workout is proceeding and is likely to be consummated, Fannie Mae may agree to reschedule (but not cancel) the foreclosure sale. Any agreement to delay a foreclosure sale or any other [Course of Action](#) to allow the implementation of the Lender Workout will be solely in Fannie Mae's discretion.

711.04 Course of Action – A Joint Workout

JOINT WORKOUTS ARE NOT AVAILABLE FOR SECURITIZED MORTGAGE LOANS WHILE THE MORTGAGE LOAN REMAINS IN THE SECURITY TRUST.

711.04A Joint Workout Defined

Either the [Lender](#) or Fannie Mae may propose that the [Lender](#) and Fannie Mae attempt to negotiate a Joint Workout with the [Borrower](#)



with respect to a [Non-Performing Mortgage Loan](#). A refinancing of the [Non-Performing Mortgage Loan](#) under Fannie Mae's [In Place Loan](#) execution as described in [Part V, Chapter 8: In Place Loans](#) is a Joint Workout under this Chapter.

711.04B Delinquency Advances Must Be Made During Negotiation of Joint Workout

If Fannie Mae and the [Lender](#) agree upon a Joint Workout, then during the negotiation of the workout agreement, the [Servicer](#) must continue to make [Delinquency Advances](#) to Fannie Mae in accordance with the [Lender's Contract](#). (See the Checklist of Issues to Consider in Doing a Workout Analysis ([Form 4809](#)) to review the specific tasks to be completed prior to electing a Joint Fannie Mae/[Servicer](#) Workout.)

711.04C Joint Workout Process

The following is a general description of how a Joint Workout process might work.

1. Fact-Finding Meeting

The first contact between the [Borrower](#), Fannie Mae and the [Lender](#) will be a fact-finding meeting and will focus on:

- explaining the Dual Track Approach and, if the Pre-Negotiation Letter has not been signed, executing the letter;
- reviewing the documents necessary for the [Servicer](#) or Fannie Mae to complete its due diligence and the Asset Review (for a [Primary Risk Mortgage Loan](#)) or Asset Audit (for a [Secondary Risk Mortgage Loan](#)); and
- the [Borrower's](#) explanation of its requested relief.

2. Fannie Mae and Lender Meeting

A separate meeting between Fannie Mae and the [Lender](#) will focus on:

- reviewing the [Lender's](#) and Fannie Mae's due diligence;
- reviewing the [Borrower's](#) request;
- formulating a response to the [Borrower's](#) request with emphasis on the source and use of funds necessary to implement the Joint Workout; and
- the impact of the Joint Workout on the [Lender's](#) servicing and loss sharing obligations to Fannie Mae and any



modifications to each that need to be made.

It is important that any differences between Fannie Mae and the [Lender](#) be resolved at this meeting. If the [Lender's](#) contribution to the Joint Workout or a modification to its servicing or loss sharing obligations must be documented, this must be included in a separate document between Fannie Mae and the [Lender](#).

3. Workout Meeting with Borrower

If a Joint Workout appears feasible, Fannie Mae and the [Lender](#) will schedule a workout meeting with the [Borrower](#). All parties, including Fannie Mae, the [Lender](#), the [Borrower](#), and their respective legal counsel, must attend and must allow enough time to facilitate a workout. Those in attendance must have authority to execute documents pursuant to a signed Pre-Negotiation Letter. Experience indicates that to be most productive, the workout meeting should start early in the morning and continue until a deal is reached or the parties agree to disagree.

4. Letter of Intent

If agreement is reached on all of the terms of the Joint Workout, counsel will draft a non-binding letter of intent, to be executed during the workout meeting. This letter of intent will set forth each party's agreements and obligations until the formal, written modification documents are completed. The letter of intent must be specific enough to fully reflect the intent of the parties (other than any modifications to the [Lender's](#) servicing or loss sharing obligations). Until the formal modification documents are completed and executed by all parties, there has been no modification of the terms of the [Non-Performing Mortgage Loan](#) or the [Borrower's](#) obligations.

711.04D Modification, Extension, and Forbearance Fees

The [Lender](#) is not permitted to charge or collect from the [Borrower](#) a fee for any modification, extension, or forbearance of a [Mortgage Loan](#) without the prior written consent of Fannie Mae. If the [Lender](#) has a loss sharing obligation to Fannie Mae, then Fannie Mae and the [Lender](#) may jointly elect to charge the [Borrower](#) a modification, extension or forbearance fee. If Fannie Mae and the [Lender](#) elect to charge such fee, and so long as the [Lender](#) has a loss sharing obligation to Fannie Mae, Fannie Mae will share such fee with the [Lender](#) on the basis of:

- if the applicable [Mortgage Loan](#) is a Pre-Review Large Mortgage Loan under Fannie Mae's Multifamily Underwriting Standards ([Form 4660](#)), then pro rata



between the [Lender](#) and Fannie Mae in accordance with their respective loss sharing percentages for such [Mortgage Loan](#) (taking into account any Modified Risk Loss Sharing (as defined in the Loss Sharing Addendum) applicable to the [Mortgage Loan](#)); or

- if the applicable [Mortgage Loan](#) is not a Pre-Review Large Mortgage Loan, then 40 percent to the [Lender](#) and 60 percent to Fannie Mae.

711.04E Triggering Modification Fees; Other Fees

If a Triggering Modification has occurred, a Triggering Modification Interim Loss Sharing calculation was made and a reserve was established against the Lender's Operational Liquidity (as provided in the Loss Sharing Addendum), any fees other than those provided for in [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.04D: Modification, Extension, and Forbearance Fees](#) shall be split between Fannie Mae and the [Servicer](#) in accordance with their respective loss sharing percentages at the time of the Triggering Modification (taking into account any Modified Risk Loss Sharing applicable to the [Mortgage Loan](#)). Except as provided in [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.04D: Modification, Extension, and Forbearance Fees](#) with respect to modification, extension and forbearance fees, and any fees required by Fannie Mae in connection with a Triggering Modification, no other fees required by Fannie Mae in connection with a [Mortgage Loan](#) modification, extension or forbearance shall be split between the [Lender](#) and Fannie Mae.

711.04F Foreclosure Process Continues Unless Otherwise Agreed to by Fannie Mae

The discussions with the [Borrower](#) in attempting to reach agreement on a Joint Workout are part of Track One of the Dual Track Approach (maintaining dialogue with the [Borrower](#) to attempt to resolve the defaults) as outlined in this Chapter. Accordingly, Track Two, the Foreclosure Track, of the Dual Track Approach will continue and will not be postponed or delayed until agreement with the [Borrower](#) has been reached and the Joint Workout has been documented. If the Joint Workout is proceeding and is likely to be consummated, Fannie Mae may agree to reschedule (but not cancel) the foreclosure sale. If the parties are unable to agree on a Joint Workout, the parties shall continue to pursue the Track Two approach and proceed to foreclosure or such other Fannie Mae-approved course of action.



711.05 Course of Action - Foreclosure

LENDER PURCHASE OF A SECURITIZED MORTGAGE LOAN IS NOT PERMITTED UNLESS THE MORTGAGE LOAN HAS BEEN DELINQUENT FOR FOUR CONSECUTIVE MONTHS. ONLY AFTER THE PASSAGE OF SUCH FOUR CONSECUTIVE MONTH DELINQUENCY PERIOD MAY THE MORTGAGE LOAN BE REMOVED FROM THE SECURITY TRUST. A DELINQUENT MORTGAGE LOAN MUST BE REMOVED FROM THE SECURITY TRUST NOT LATER THAN 24 MONTHS AFTER INITIAL DELINQUENCY.

711.05A Primary Risk Mortgage Loans

Unless one of the other [Courses of Action](#) described in this Section has been selected, Fannie Mae will instruct outside counsel to vigorously pursue a foreclosure, following the foreclosure process described under Track Two of the Dual Track Approach in [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 712: Dual Track Approach](#).

711.05B Secondary Risk Mortgage Loans

Unless one of the other [Courses of Action](#) described in this Section has been selected and, if part of a SWAT approved by Fannie Mae, the [Special Servicer](#) will instruct outside counsel to vigorously pursue a foreclosure, following the foreclosure process described under Track Two of the Dual Track Approach in [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 712: Dual Track Approach](#).

If foreclosure is the approved [Course of Action](#) for a [Non-Performing Secondary Risk Mortgage Loan](#), the Lender must purchase the [Mortgage Loan](#) from Fannie Mae. Such purchase of the [Mortgage Loan](#) from Fannie Mae is not considered to be the exercise of the [Course of Action](#) set forth in [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.02: Course of Action – Lender Purchase of Mortgage Loan](#), but is part of the foreclosure [Course of Action](#) under this [Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.05: Course of Action - Foreclosure](#) and is to permit the Lender to credit bid at the foreclosure sale and/or if the winning bidder, to permit the Lender to hold title to and operate the [Property](#) in the name of the Lender or its designee. In connection with exercising the foreclosure [Course of Action](#), the Lender must purchase the [Mortgage Loan](#) under one of the following options, either of which must be identified in the SWAT submitted to Fannie Mae.



1. Purchase Prior to Foreclosure

The Lender may purchase the Non-Performing Secondary Risk Mortgage Loan prior to foreclosure by:

- indicating on the initial SWAT, or updated SWAT received by Fannie Mae no later than 10 Business Days before the proposed purchase date, that Lender has elected to purchase the Mortgage Loan prior to foreclosure, and identifying the anticipated purchase date;
- purchasing, on the identified purchase date, the Mortgage Loan from Fannie Mae at the purchase price as calculated below in this Part V, Section 711.05.B;
- purchasing the Mortgage Loan in the Lender's own name (or the name of an affiliate as indicated on the approved SWAT), and thereafter implementing the foreclosure process in its own name;
- within five Business Days following receipt from the Lender of the purchase price together with an original assignment of the Mortgage Loan, in recordable form, Fannie Mae will execute and return the original assignment, together with:
 - the original Note endorsed, without recourse, representation or warranty, to the Lender (or its affiliate);
 - the original Mortgage Loan file; and
 - such other documents as necessary to fully assign, without recourse, representation or warranty, Fannie Mae's interest in the Mortgage Loan to the Lender (or its affiliate);
- all documents delivered to Fannie Mae for execution shall be pursuant to Part V, Chapter 4: Asset Management: Loan Document Administration, Section 404.01: Submission of Documents to Fannie Mae;
- after completion of the foreclosure, the Lender or its affiliate will hold title to the Property until disposition;
- the Lender will continue to submit updated SWATs for Fannie Mae's approval until disposition of the Property, at which time the Lender will submit its Loss Notification Form (Form 4817) (as provided in the Lender's Contract) to Fannie Mae; and



- if the **Non-Performing Secondary Risk Mortgage Loan** reinstates by the **Borrower** following the **Lender's** purchase but prior to the foreclosure sale, the **Lender** will not be entitled to credit any future losses on the **Mortgage Loan** against its recourse obligation.

2. Purchase Immediately After Foreclosure

The **Lender** may purchase the **Non-Performing Secondary Risk Mortgage Loan** immediately following foreclosure by:

- indicating on the initial SWAT, or updated SWAT received by Fannie Mae no later than 60 **Business Days** before the foreclosure sale date, that **Lender** has elected to purchase the **Mortgage Loan** immediately following foreclosure (assuming Fannie Mae is the winning bidder at the foreclosure sale), and identifying the anticipated foreclosure sale date;
- including with such SWAT an initial Asset Audit prepared no later than 60 days following the **Date of Default**, and providing to Fannie Mae a final and complete Asset Audit at least 60 **Business Days** prior to foreclosure;
- no later than 10 **Business Days** prior to the foreclosure sale date, prepare and deliver to Fannie Mae an original Special Warranty Deed, in recordable form, and an escrow letter as provided below. Fannie Mae will execute and deliver to an agreed-upon escrow agent, pursuant to escrow instructions also prepared by the **Lender**, the Special Warranty Deed, together with (i) the original **Note** endorsed, without recourse, representation or warranty, to the **Lender**, and (ii) the original **Mortgage Loan** file. Such escrow letter must contain instructions that require the escrow agent, within five **Business Days** following the foreclosure sale date, to either (a) deliver the Special Warranty Deed and other required documentation to **Lender** upon Fannie Mae's confirmation of receipt of the purchase price or (b) return the original Special Warranty Deed and all other documentation to Fannie Mae;
- all documents delivered to Fannie Mae for execution shall be pursuant to **Part V, Chapter 4: Asset Management: Loan Document Administration, Section 404.01: Submission of Documents to Fannie Mae**;
- on the foreclosure sale date, the **Lender** purchases the **Property** from Fannie Mae at the purchase price as



calculated below in this Part V, Section 711.05.B;

- the Lender purchases the Mortgage Loan in its own name (or the name of an affiliate as indicated on the approved SWAT), and thereafter owns, operates and manages the Property until disposition;
- the Special Warranty Deed from Fannie Mae must be filed of record immediately following the recording of the foreclosure or trustee's deed into Fannie Mae; and
- the Lender will continue to submit updated SWATs for Fannie Mae's approval until disposition of the Property, at which time the Lender will submit its Loss Notification Form (Form 4817) to Fannie Mae.

3. Purchase Price for Purchase Immediately Prior To or After Foreclosure

For Secondary Risk Mortgage Loans purchased pursuant to this Section, unless otherwise provided in the Lender's Contract, the purchase or repurchase price will be equal to:

- the then unpaid actual principal balance of the Mortgage Loan; plus
- interest as follows:
 - except for any Securitized Mortgage Loan, interest accrued through the purchase date; or
 - for any Securitized Mortgage Loan, interest for the entire month in which the purchase occurs based on the Security Balance remaining after applying the scheduled Mortgage Loan payment due on the first day of that month; less
- any Delinquency Advance made, but not reimbursed either by Fannie Mae or by or on behalf of the Borrower.

711.05C Deed-in-Lieu of Foreclosure

Fannie Mae, in its sole discretion, may or may not elect to take a deed-in-lieu of foreclosure for any Primary Risk or Secondary Risk Mortgage Loan.

711.05D Management of Property Post Title Vesting in Fannie Mae

If Lender has made a Deferred Asset Valuation Date Election



under its Loss Sharing Addendum, and title to a **Property** has vested in Fannie Mae, its affiliate or nominee as a result of a **Foreclosure Event** (as defined in the Loss Sharing Addendum) or other judicial process, Fannie Mae shall, except for matters relating to life/safety at the **Property**, consult with the **Lender** for purposes of making joint decisions with the **Lender** with respect to major decisions regarding the management and disposition of the **Property**, including but not limited to:

- the timing and terms of listing the **Property** for sale;
- the acceptance of terms of sale of the **Property**;
- any financing of the **Property**;
- approval of any business plan with respect to the **Property**;
- approval of each annual budget for the **Property**;
- any deviation from the approved budget by more than 20 percent with respect to any line item on a semi-annual basis;
- approval and implementation of any rehabilitation or renovation plan with respect to the **Property**;
- any decision to and implementation of a plan to develop any or all of the **Property**;
- any capital expenditures in excess of \$50,000 with respect to the **Property**;
- engagement of any professional advisors, other than in the ordinary course of business;
- entering into any **Material Commercial Lease** of any space within a **Property**, other than in the ordinary course of business;
- commencement, institution or settlement of any legal proceedings with respect to the **Property**, other than eviction and termination proceedings in respect of tenant leases and other non-material legal proceedings for the collection of amounts due and owing from third parties and tenants undertaken in the ordinary course of business; and
- the decision and implementation of any plan not to rebuild or restore the **Property** following any casualty or condemnation.

Any request by Fannie Mae with respect to a major decision



shall be responded to in writing by the Lender within two Business Days of the making of such request. Any request with respect to a major decision not responded to by the Lender within two Business Days shall be deemed approved.

711.05E Deficiency Suits

1. General

If a foreclosure sale is conducted with respect to a Property, Fannie Mae shall determine whether to pursue a deficiency against the Borrower or pursue any guarantor who may have liability with respect to such Mortgage Loan post-foreclosure or other final disposition of the Mortgage Loan (a “Deficiency Suit”), if such action is available under applicable state law.

Nothing in this Section E shall be deemed to relieve either Lender or Fannie Mae from any claims of indemnification under the terms of their Contract.

2. Fannie Mae Deficiency Suit Election

If Fannie Mae elects to pursue a Deficiency Suit, and the Lender’s Allocable Percentage per the Loss Sharing Addendum with respect to the relevant Mortgage Loan is greater than zero, the Lender may elect to share in the cost and recovery related to such Deficiency Suit. If the Lender elects to participate in such Deficiency Suit, Fannie Mae shall bear 67 percent of the costs and expenses of such Deficiency Suit, and the Lender shall bear 33 percent of the costs and expenses of such Deficiency Suit. Likewise, any recovery resulting from the Deficiency Suit shall be shared 67 percent to Fannie Mae and 33 percent to the Lender.

If Fannie Mae elects to pursue a Deficiency Suit, whether or not the Lender elects to participate in such Deficiency Suit, Fannie Mae shall make all decisions in its sole and absolute discretion regarding such Deficiency Suit, including but not limited to, selection of counsel, election of venue, relief to be sought, and the settlement of the Deficiency Suit.

3. Lender Deficiency Suit Election

If Fannie Mae elects not to pursue a Deficiency Suit following foreclosure, at the Lender’s request, Fannie Mae shall assign the Deficiency Suit to the Lender, to the extent permitted by law and provided that such assignment shall be at no cost to Fannie Mae, and the Lender may thereafter pursue such Deficiency Suit in its own name. If the Lender does pursue the Deficiency Suit, Fannie Mae may elect to participate in the cost and recovery of such Deficiency Suit. All



costs and expenses of such Deficiency Suit will be shared equally between the Lender and Fannie Mae, and likewise, any recovery resulting from such Deficiency Suit shall be shared equally between the Lender and Fannie Mae.

If Fannie Mae elects not to pursue a Deficiency Suit, and the Lender elects to pursue such Deficiency Suit in its own name, Lender shall make all decisions in its sole and absolute discretion regarding such Deficiency Suit, including but not limited to selection of counsel, election of venue, relief to be sought, and the settlement of the Deficiency Suit.

4. Costs and Expenses; Loss Sharing

If the Lender and Fannie Mae are sharing the costs and expenses of any Deficiency Suit, the party prosecuting such Deficiency Suit shall submit copies of all invoices to the other party for reimbursement of the other party's share of all costs and expenses incurred in connection with such Deficiency Suit. Such invoices shall be submitted no more frequently than every three months and shall be paid within 30 days of receipt.

Any recovery resulting from a Deficiency Suit, regardless of whether Fannie Mae or the Lender has participated in such Deficiency Suit, shall not affect the determination and payment of loss sharing pursuant to the Loss Sharing Addendum.

5. Withdrawal from Deficiency Suit

If Fannie Mae and the Lender are participating in a Deficiency Suit, either party may elect at any time to withdraw from the Deficiency Suit, in which case the withdrawing party shall be obligated to share the costs and expenses in the percentages set forth above through the date of its withdrawal. The withdrawing party shall not participate in any recovery.

711.06 Course of Action – Note Sale Election or Discounted Loan Payoff

NOTE SALES OR DISCOUNTED LOAN PAYOFFS ARE NOT AVAILABLE FOR SECURITIZED MORTGAGE LOANS WHILE THE MORTGAGE LOAN REMAINS IN THE SECURITY TRUST.

711.06A Note Sale and Discounted Loan Payoff Defined

As an alternative to foreclosure of the Property, it may be the best exit strategy for Fannie Mae and the Lender to agree to sell Fannie Mae's interest as the Noteholder. A sale of the Non-Performing Mortgage Loan to a third party is a "Note Sale", and accepting less than



the full payoff from the Borrower is a “Discounted Loan Payoff”. Such sale of the Non-Performing Mortgage Loan or acceptance of a Discounted Loan Payoff must be on terms mutually-agreeable to Fannie Mae and Lender.

711.06B Lender Ability to Bid

If Fannie Mae and the Lender agree to consider a Note Sale as the Course of Action for a Non-Performing Primary Risk Mortgage Loan, the Lender will have the option to participate in the Note Sale bidding process with other potential third-party purchasers after Fannie Mae and the Lender have mutually-agreed upon the Note Sale terms and pricing floor. The Lender’s bid will be considered by Fannie Mae on the same basis as any other third-party bids received for the Note Sale. If the Lender is the successful bidder, the Lender will purchase the Non-Performing Mortgage Loan on the same terms as published to all bidders by Fannie Mae or, if utilized, the Note Sale broker. Any such sale of the Non-Performing Mortgage Loan to the Lender shall be without recourse, representation or warranty by Fannie Mae, except as otherwise agreed by Fannie Mae.

711.06C Any Note Sale or Discounted Payoff Gives Rise to Loss Sharing Event

Any loss incurred by Fannie Mae in connection with a Note Sale or Discounted Payoff is a loss sharing event as contemplated by the Lender’s Contract.

711.06D Note Sale – Secondary Risk Mortgage Loans

For Non-Performing Secondary Risk Mortgage Loans, the selection of a Note Sale as the Course of Action must be included in the SWAT submitted to Fannie Mae for approval. The approved Note Sales price will be the Asset Value for purposes of determining the reduction in the Lender’s recourse obligation.

If a Note Sale is the approved Course of Action for a Non-Performing Secondary Risk Mortgage Loan, the Lender must purchase the Mortgage Loan from Fannie Mae under one of the following options, either of which must be identified in the SWAT submitted to Fannie Mae.

1. Purchase Prior to Consummation of the Note Sale with the Third-Party Note Purchaser

The Lender may purchase the Non-Performing Secondary Risk Mortgage Loan from Fannie Mae prior to consummation of the Note Sale by:



- indicating such election on the initial SWAT or updated SWAT, received by Fannie Mae no later than 15 Business Days before the proposed purchase date, that Lender has elected to purchase the Mortgage Loan prior to the Note Sale closing and identifying the anticipated purchase date;
- purchasing, on the identified purchase date, the Mortgage Loan from Fannie Mae at the purchase price as calculated in Part V, Section 711.05.B.3;
- purchasing the Mortgage Loan in the Lender's own name (or the name of an affiliate as indicated on the approved SWAT), and thereafter consummating the Note Sale with the third-party Note purchaser;
- within five Business Days following receipt from the Lender of the purchase price together with an original assignment of the Mortgage Loan, in recordable form, Fannie Mae will execute and return the original assignment, together with:
 - the original Note endorsed, without recourse, representation or warranty, to the Lender (or its affiliate);
 - the original Mortgage Loan file; and
 - such other documents as necessary to fully assign, without recourse, representation or warranty, Fannie Mae's interest in the Mortgage Loan to Lender (or its affiliate); and
- all documents delivered to Fannie Mae for execution shall be pursuant to Part V, Chapter 4: Asset Management: Loan Document Administration, Section 404.01: Submission of Documents to Fannie Mae.

2. Purchase Simultaneously with Consummation of the Note Sale with the Third-Party Note Purchaser

The Lender may purchase the Non-Performing Secondary Risk Mortgage Loan from Fannie Mae simultaneously with its consummation of the Note Sale by:

- indicating such election on the initial SWAT or updated SWAT, received by Fannie Mae no later than 30 calendar days before the proposed purchase date, that Lender has elected to purchase the Mortgage Loan simultaneously with the Note Sale closing and identifying the anticipated



purchase date;

- no later than 10 **Business Days** prior to the purchase date, prepare and deliver to Fannie Mae an original assignment of the **Mortgage Loan**, in recordable form, and an escrow instruction letter as provided below. Fannie Mae will execute and deliver to an agreed-upon escrow agent, pursuant to the escrow instruction letter, the original assignment, together with:
 - the original **Note** endorsed, without recourse, representation or warranty, to the **Lender** (or its affiliate);
 - the original **Mortgage Loan** file; and
 - such other documents as necessary to fully assign, without recourse, representation or warranty, Fannie Mae's interest in the **Mortgage Loan** to **Lender** (or its affiliate). Such escrow instruction letter must contain instructions that require the escrow agent, within five **Business Days** following the closing of the Note Sale, to either (a) deliver the original assignment and other required documentation to **Lender** upon Fannie Mae's confirmation of receipt of the purchase price, or (b) return the original assignment and all other documentation to Fannie Mae;
- all documents delivered to Fannie Mae for execution shall be pursuant to **Part V, Chapter 4: Asset Management: Loan Document Administration, Section 404.01: Submission of Documents to Fannie Mae**;
- on the date of closing of the Note Sale with the third-party purchaser, the **Lender** will purchase the **Mortgage Loan** from Fannie Mae at the purchase price as calculated in **Part V, Section 711.05.B.3**;
- the **Lender** purchases the **Mortgage Loan** in its own name (or in the name of an affiliate as indicated on the approved SWAT), and thereafter simultaneously closes the Note Sale with the third-party purchaser; and
- the assignment of the **Mortgage Loan** from Fannie Mae must be filed of record prior to the recording of the assignment from the **Lender** (or its affiliate) to the third-party purchaser of the **Note**.



711.06E Discounted Loan Payoff - Secondary Risk Mortgage Loans

For Non-Performing Secondary Risk Mortgage Loans, the selection of a Discounted Loan Payoff as the Course of Action must be included in the SWAT submitted to Fannie Mae for approval. The approved Discounted Loan Payoff amount will be the Asset Value for purposes of determining the reduction in the Lender's recourse obligation.

If a Discounted Loan Payoff is the approved Course of Action for a Non-Performing Secondary Risk Mortgage Loan, the Lender shall implement the Course of Action by:

- indicating in the initial SWAT, or updated SWAT received by Fannie Mae no later than 10 Business Days before the proposed payoff date, that Lender has elected such Course of Action and identifying the anticipated payoff date;
- delivering to Fannie Mae on the identified payoff date the payoff amount as calculated in Part V, Chapter 7: Non-Performing Mortgage Loans, Section 711.02C: Purchase Price for Mortgage Loans; and
- the Lender must follow the post-payoff actions as described in Part V, Chapter 2: Reporting and Remitting, Section 215: Post-Payoff Actions.

Section 712 Dual Track Approach

The Dual Track Approach and other requirements of this Part V, Section 712 apply to all Non-Performing Primary Risk Mortgage Loans and Non-Performing Secondary Risk Mortgage Loans.

For Secondary Risk Mortgage Loans, the Special Servicer must follow the Dual Track Approach as outlined here, unless revised by an approved SWAT. Unless the Lender has previously elected either the Lender Purchase or Lender Workout Course of Action, the Dual Track Approach (including the foreclosure process) must be immediately commenced by the Special Servicer following the transfer of the Non-Performing Mortgage Loan to the Special Servicer for default resolution.

712.01 Dual Track Approach Generally

The most effective and efficient approach to resolving a Non-



Performing Mortgage Loan requires pursuing dual tracks concurrently:

- dialogue with the Borrower; and
- foreclosure process.

To be effective, both tracks of the Dual Track Approach must be pursued aggressively to ensure the Borrower understands the gravity of its default. The Dual Track Approach must be implemented immediately for all reported defaults, regardless of the Special Servicer's subsequent election of remedy to resolve the default. While the Dual Track Approach is described in detail in this Chapter, the default resolution process remains a case-specific process and not every case will fit perfectly into this approach.

712.02 Waiver of Dual Track Approach

For Secondary Risk Mortgage Loans, exceptions to the Dual Track Approach require a written waiver from Fannie Mae Special Asset Management, in the approved SWAT submitted pursuant to Part V, Chapter 7: Non-Performing Mortgage Loans, Section 705.01: Funding Capital Repairs During Default Resolution. If the outside counsel determines that a waiver to the Dual Track Approach is required by local law or if the Special Servicer determines that a waiver will result in more effective resolution of the default, then the Special Servicer must submit a written waiver request to Fannie Mae Special Asset Management in the SWAT, providing the reasoning for the waiver.

712.03 Track One: Dialogue with the Borrower

712.03A Purpose of Track One

Track one involves maintaining a dialogue with the Borrower during calendar days two (2) through 60, beginning immediately after the initial Payment Default or discovery of a non-monetary default that may become a Performance Default if not timely cured. When there is a default under a Mortgage Loan, it is absolutely essential that the Servicer immediately contact the Borrower to determine the cause of the default and to begin discussion on how the default will be cured. Until the Non-Performing Mortgage Loan is transferred to special servicing, the Servicer must maintain a dialogue with the Borrower and Fannie Mae Special Asset Management about an acceptable resolution of the Mortgage Loan's default.

The first 30 calendar days of the Dialogue Track are focused on working with the Borrower to collect all sums due and owing or curing any possible Performance Default. While calendar days 31



through 60 continue to focus on collections or curing the default, the focus also includes preparing a [Non-Performing Mortgage Loan](#) for default resolution.

712.03B First 30 Calendar Days after a Default

During this stage of the Dialogue Track, a [Servicer](#) must act quickly and aggressively to establish contact with the [Borrower](#) to determine:

- the cause of the [Performance Default](#) or [Payment Default](#);
- whether the [Borrower](#) will cure the [Performance Default](#) within the prescribed cure period or the [Payment Default](#) prior to the end of the month in which the missed payment occurred;
- the likelihood of the [Borrower](#) making the next month's payment; and
- if the missed payment will not be made, whether the [Borrower](#) will voluntarily turn over the monthly net operating income of the [Property](#).

Because Fannie Mae requires [Servicers](#) to report all delinquent [Mortgage Loans](#) as of the 17th day of the month, [Servicers](#) must begin calling and corresponding with delinquent [Borrowers](#) as early as a few days after the Payment Due Date or the day before the Late Fee becomes due. These practices facilitate accurate and timely delinquency reporting to Fannie Mae. Waiting until the Late Fee becomes due to begin contacting delinquent [Borrowers](#) jeopardizes the [Servicer's](#) ability to report and certify delinquent [Mortgage Loans](#) on a timely and complete basis.

712.03C Calendar Days 31 through 60 after a Payment Default or Performance Default

1. Primary Risk Mortgage Loans

During calendar days 31 through 60 after a [Payment Default](#) or [Performance Default](#), or until the [Non-Performing Primary Risk Mortgage Loan](#) is transferred to Fannie Mae Special Asset Management as provided in Part V, Chapter 7: [Non-Performing Mortgage Loans, Section 707.01: Transfer to Special Servicing](#), the [Servicer](#) must remain focused on aggressively pursuing the [Borrower](#) to collect all amounts due or assure a cure of the [Performance Default](#). The [Servicer](#) must continue to call and correspond with the [Borrower](#) and make every attempt to resolve the [Payment Default](#) or [Performance Default](#).



2. Secondary Risk Mortgage Loans

For Secondary Risk Mortgage Loans, Fannie Mae expects aggressive communication with the Borrower to attempt to resolve the Payment Default or Performance Default quickly, before the need to transfer the Non-Performing Mortgage Loan to its special servicing to prepare the SWAT.

712.03D Cessation of Dialogue with the Borrower

1. Cessation of Negotiations with the Borrower

Continuing an open dialogue with the Borrower is premised on the Borrower providing documentation necessary to complete:

- the Servicing Transfer Memo for Primary Risk Mortgage Loans; or
- the SWAT for Secondary Risk Mortgage Loans.

It is expected that the Borrower will account for and remit the monthly net operating income from the Property to the Servicer. If the Borrower is not willing to account for and remit the monthly net operating income to the Servicer, then further negotiations with the Borrower must cease immediately.

2. Primary Risk Mortgage Loans

Upon transfer of the Primary Risk Mortgage Loan to Fannie Mae Special Asset Management, the Servicer must cease any further dialogue or correspondence with the Borrower regarding the status of the Non-Performing Mortgage Loan or the Borrower's efforts to cure the default. If the Servicer must engage in further discussions with the Borrower, a representative of Fannie Mae Special Asset Management must be included in the discussions.

3. Secondary Risk Mortgage Loans

Upon transfer of the Secondary Risk Mortgage Loan to the Servicer's special servicing unit, the Servicer must document any further dialogue or correspondence with the Borrower regarding the status of the Non-Performing Mortgage Loan or the Borrower's efforts to cure the default in its SWAT.

712.04 Track Two: Foreclosure Process

712.04A The Foreclosure Process

1. Generally



Track two involves initiating the foreclosure process. Experience has shown that if the foreclosure process is delayed until the parties know whether a workout is achievable or an alternative **Course of Action** is preferred, valuable time is lost. Initiating the foreclosure process has the added benefit of keeping the parties focused on the problem. This overall approach necessarily requires:

- more formal communication with the **Borrower**; and
- use of outside counsel to document the relationship.

While relationships do not have to be hostile, the **Special Servicer's** relationship with the **Borrower** must be based with a view toward loss mitigation. If the **Non-Performing Mortgage Loan** is non-recourse to the **Borrower**, immediate action is necessary to ensure that the **Property** is not allowed to deteriorate and that net operating income is accounted for and paid each month. Depending on the jurisdiction, the monthly net operating income (gross monthly income after payment of ordinary and customary operating expenses – exclusive of capital expenditures, repairs, or payments to **Borrower's** affiliates) should be paid directly to the **Servicer** for remittance to Fannie Mae or held by a receiver until the delinquency is resolved.

2. Engagement of Counsel

The foreclosure process begins with the engagement of outside counsel in the **Property** jurisdiction as provided in **Part V, Chapter 7: Non-Performing Mortgage Loans, Section 710: Engagement of Legal Counsel**; however, some of the preliminary notices prior to foreclosure (for example, notice of default, intent to accelerate, or acceleration) may be prepared by the **Special Servicer's** in-house counsel. Generally, the **Special Servicer** will direct outside counsel to:

- send or cause to be sent to the **Borrower** a formal written notice of default or other preliminary notices required prior to foreclosure;
- take immediate action to get control of the net operating income; and
- commence foreclosure.

Outside counsel must furnish the **Special Servicer** with copies of all documents that are sent to the **Borrower** or filed with a court (with copies to the **Servicer** on **Primary Risk Mortgage Loans**, and to Fannie Mae on **Secondary Risk Mortgage Loans**) in connection with the foreclosure and any related bankruptcy or other litigation, so that all parties may stay apprised of the status of the foreclosure.



3. Appraisal

If an **Appraisal** is required as part of the foreclosure process or any related bankruptcy or litigation, the **Special Servicer** will engage the appraiser using the Form Letter of Engagement for Appraiser (Form 4814). If the **Special Servicer** determines that the **Appraisal** should be covered by the attorney-client privilege and kept confidential, the **Special Servicer** should request either outside counsel or its in-house counsel to send the Engagement Letter for Appraiser. Prior to engaging the appraiser under the attorney-client privilege, the **Special Servicer** should confirm with outside counsel whether the privilege is likely to apply and what, if any, additional steps would be required to better ensure the protection of the attorney-client privilege. For **Secondary Risk Mortgage Loans**, if the **Special Servicer** elects to change the instructions to the appraiser, such request must be included in the SWAT. The cost for this **Appraisal** is a Delinquency Resolution Cost.

4. Postponement of Foreclosure Sale

Because a foreclosure sale may be postponed due to an impending workout or other alternative **Course of Action**, or a bankruptcy or other litigation, the **Special Servicer** must notify outside counsel to confirm the foreclosure sale prior to the scheduled foreclosure date. If the foreclosure sale is to be postponed, the **Special Servicer** will provide outside counsel with a new sale date, place, and time of the sale.

712.04B REO Management

1. Maximization of Value of REO

Following foreclosure or other acquisition of title to the **Property**, the **Special Servicer** must diligently attempt to maximize the value of any **REO** acquired with an objective of ensuring that the physical and economic occupancy of the **REO** is at or above that of comparable property located in the same market as the **REO**.

2. "Walk Through" Report

To maximize the value of an **REO**, the **Special Servicer** must prepare a "walk-through" report detailing the rental status and condition of each unit with recommendations for repair and cost estimates for such repair. (With respect to individual units in a cooperative property, the **Special Servicer** will not be required to inspect any unit that is not sponsor-owned, vacant, or otherwise permitted to be inspected pursuant to applicable **Loan Documents**.) This report will be the basis for a management and marketing plan to be prepared by the **Special**



Servicer (for [Secondary Risk Mortgage Loans](#), this will be part of a SWAT submission).

3. Management and Market Plan

The management and marketing plan must include, at a minimum:

- staffing requirements;
- policies regarding tenant applications;
- due diligence;
- credit and previous history;
- late charges;
- returned checks;
- collection of delinquent rents;
- advertising;
- maintenance procedures;
- security deposits;
- rental collections and make-ready procedures;
- comparable rental data;
- information regarding target markets;
- tenant profiles and updated reports when necessary; and
- plans for repairing and restoring the [REO](#) to marketable condition, with improvements carefully underwritten to avoid over-improvements to the [REO](#) in comparison with similar property in the same market as that in which the [REO](#) is located.

4. Timing of “Walk Through” Report and Management and Marketing Plan

It is expected that under ordinary circumstances, the time frame for maximizing the value must not exceed more than six (6) months from the date of acquisition of title to the [REO](#).

The "walk-through" report and management and marketing plan must be in writing and part of the [Special Servicer's Servicing File](#). The report and plan must be completed within one (1) month after the date of acquisition of title to the [REO](#) and become a part of Fannie Mae's files for [Primary Risk Mortgage Loans](#) or contained in a SWAT



submitted with respect to a [Secondary Risk Mortgage Loan](#). The [Special Servicer](#) must manage and dispose of the [REO](#) in accordance with such management and marketing plan. The [REO](#) management and marketing plan must be updated as changed circumstances require and, if a [Secondary Risk Mortgage Loan](#), resubmitted to Fannie Mae as an updated SWAT, either upon the earlier of:

- as new information is available to the [Special Servicer](#) as to the management or marketing of the [REO](#); or
- every six (6) months.

712.05 Description of Contractual Relationships

712.05A Two Contractual Relationships

In resolving delinquencies, two distinct and separate contractual relationships are involved, as follows:

- One is the [Borrower](#)/noteholder (Fannie Mae) relationship evidenced by the [Loan Documents](#).
- The other is the [Fannie Mae/Lender](#) relationship evidenced by the [Lender's Contract](#) and the [Guide](#).

When the [Borrower](#) is in default on the [Mortgage Loan](#), the [Borrower](#) is in default under its contractual relationship with Fannie Mae as the noteholder. The [Lender's Delinquency Advance](#) of the scheduled [Mortgage Loan](#) payments is based on the [Lender's Contract](#) with Fannie Mae and does not cure any default under the [Mortgage Loan](#) nor advance the [LPI](#) date. The difference between the actual payment made by the [Borrower](#) and the scheduled payment made by the [Lender](#) is part of the final settlement of loss that is governed by the [Lender's Contract](#).

712.05B No Disclosure of Lender's Contract Terms to Borrower; Borrower Not a Third-Party Beneficiary of Lender Contract

Neither the [Lender](#) nor the [Servicer](#) (if not the same) must discuss the [Fannie Mae/Lender](#) contractual relationship with the [Borrower](#). If the [Borrower](#) does not make a payment, regardless of whether the [Lender](#) makes a [Delinquency Advance](#) of the scheduled payment to Fannie Mae as part of its contractual obligation, the [Mortgage Loan](#) must be reported as delinquent by the [Servicer](#) and Fannie Mae's records will reflect the [Mortgage Loan](#) as delinquent. The [Borrower](#) is not a party to, nor a beneficiary of, the [Lender's Contract](#) between Fannie Mae and the [Lender](#). The [Lender's](#) obligation to make



Delinquency Advances to Fannie Mae has no impact on the Borrower's obligation to make its payments under the terms of the Note.

712.05C Primary Risk Mortgage Loans

Because the Lender does not retain an interest in the Mortgage Loan after selling the Mortgage Loan to Fannie Mae, for Primary Risk Mortgage Loans the Lender does not have the authority to take any actions that may impair Fannie Mae's rights or remedies, without Fannie Mae's prior written approval, including, but not limited to:

- making representations on behalf of Fannie Mae;
- waiving rights or remedies of Fannie Mae under the Loan Documents;
- modifying or altering the Loan Documents; or
- voting or making elections for Fannie Mae in any bankruptcy court proceeding.

712.05D Secondary Risk Mortgage Loans

For Secondary Risk Mortgage Loans, the scope of the Special Servicer's authority to take any actions on behalf of Fannie Mae shall be expressly provided in the limited power of attorney granted by Fannie Mae.

712.06 Asset Audits for Secondary Risk Mortgage Loans

712.06A Purpose of Asset Audits

An Asset Audit involves much of the same due diligence as the Lender performs during underwriting. This "re-underwriting" is essential to determine:

- the cause of the default;
- the current financial condition of the Borrower;
- the condition of the Property;
- the current market;
- the current condition of the Property management; and
- the cost of curing the default, including sources and uses of funds.



712.06B Personnel Performing Asset Audits

The Asset Audit must be conducted by experienced workout staff of the **Servicer** who are not the same personnel as those who inspected the **Property** and prepared any asset review for the **Lender** when the **Mortgage Loan** was originated.

712.06C Timing of Asset Audits

Simultaneously with pursuing the Dual Track Approach, the **Servicer** must submit an Asset Audit to Fannie Mae **Special Asset Management** within 60 calendar days after the **Date of Default** as part of the SWAT.

Portions of the Asset Audit may take longer than 60 days, such as an environmental assessment and a lead-based paint risk assessment for any **Property** built before December 31, 1978. If this is the case, all of the information available by the 60th day after the **Date of Default** must be given to Fannie Mae **Special Asset Management**. The **Servicer** may submit a supplement to the Asset Audit as soon as the incomplete items are received. This process will enable Fannie Mae **Special Asset Management** to become aware of the major issues related to the **Mortgage Loan** default.

If the **Servicer** fails to timely provide a completed Asset Audit to Fannie Mae, Fannie Mae reserves the right to perform the Asset Audit itself or through a third party and assess the **Servicer** for the cost of the Asset Audit.

712.06D Content of Asset Audits

The Asset Audit must contain, at a minimum, the following:

- a determination of whether the default was economic-related or management-related;
- an on-site inspection to determine the physical condition and occupancy-level of the **Property**;
- photographs of the **Property**, improvements, and surrounding properties;
- an income and expense analysis of the **Property**, including a review of rent collection performance, historical expense levels, and contributions of capital by the **Borrower** (or its partners, members or shareholders);
- an analysis of the **Property** relative to the market;
- a thorough analysis of the original underwriting file and the



executed Loan Documents;

- an interview of the Key Principals or Principals of the Borrower and the Property management agent to determine the reason for the default and the likelihood and timing of a cure of the default by the Borrower;
- an assessment of the physical condition of the Property to determine whether maintenance of the Property has been deferred that would result in safety or liability concerns and the cost of necessary repairs;
- an environmental assessment, if applicable (see special requirements for environmental assessment in this Section);
- a review of the Borrower's payment history to determine compliance with the terms of the Note;
- a review of the Collateral Agreements for Completion/Repair, Replacement Reserves, Achievement, and Deficit Operation and payment activity to determine whether the reserves were adequately funded and whether the Borrower attempted to maintain the Property in marketable condition;
- a review of the tax and insurance deposits to ensure that payments are current;
- a title insurance update or bring-down to determine whether unauthorized second mortgages or other unauthorized encumbrances exist, or unauthorized transfers have occurred;
- a review of the ability of the Property management agent or of the ability of the Borrower to manage the Property, if owner-managed; and
- a review of the financial capability of the Key Principals or Principals to determine if additional capital is available.

The results of the Asset Audit must be documented in a concise memorandum format for use by all those involved in the selection of a Course of Action.

712.06E Pre-Negotiation Letter

Attached as an exhibit to the Pre-Negotiation Form Letter (NOI and Loan Document Provisions) (Form 4811) or Pre-Negotiation Form Letter (Form 4812) is a checklist of items and documents to request



from the **Borrower** that will assist the **Servicer** in conducting the Asset Audit. An Asset Audit may, in the **Servicer's** discretion, be dispensed with if the Performance or **Payment Default** is reasonably determined to be technical in nature or readily susceptible of cure. For example, if the **Payment Default** results from an inadvertent administrative error in mailing the monthly payment, or if the monthly payment is lost in the mail, an Asset Audit would not be required if the **Payment Default** is cured within 60 days after the **Date of Default**. If the **Payment Default** is not cured within 60 days, the Asset Audit is due as soon as possible after the end of the 60-day period.

712.06F Special Requirements for the Environmental Assessment

1. Required Statement in Asset Audit

After reviewing the environmental assessment performed at **Mortgage Loan** origination and conducting a current on-site inspection to review any items noted in the original assessment done at **Mortgage Loan** origination, the Asset Audit must contain either:

- a statement that there is no material, adverse change in the results of the **Phase I ESA** or **Phase II ESA**, if applicable, or no noncompliance with any **O&M** requirements; or
- a statement that there is a material, adverse change in the results of the **Phase I ESA** or **Phase II ESA**, if applicable, or noncompliance with any **O&M** requirements and a description thereof.

2. Asset Audit Shows Material, Adverse Change

If the Asset Audit reflects a material, adverse change in the environmental condition of the **Property**, the **Servicer** must obtain another **Phase I ESA** or **Phase II ESA**, if applicable. Even if the Asset Audit does not reflect a material, adverse change, upon review of the Asset Audit by Fannie Mae, Fannie Mae may require the **Servicer** to obtain another **Phase I ESA** or **Phase II ESA**.

3. Engagement of Environmental Consultant

If another environmental assessment is required to be obtained, the **Servicer** must engage the environmental consultant using the Form Letter of Engagement for Environmental Consultant (**Form 4815**) unless the **Servicer** determines that the new **Phase I ESA** or **Phase II ESA** should be covered by the attorney-client privilege and kept confidential. If attorney-client privilege is desired, the **Servicer** must request either outside counsel or its in-house counsel to send the Engagement Letter for Environmental Consultant. Prior to engaging the



environmental consultant under the attorney-client privilege, the **Servicer** must confirm with outside counsel whether the privilege is likely to apply and what, if any, additional steps would be required to better ensure the protection of the attorney-client privilege.

4. Cost of Environmental Assessment

The cost of the environmental assessment is considered a Delinquency Resolution Cost.

712.07 Dual Track Timeline

This timeline is hypothetical and represents the typical time frames that should be followed for all **Non-Performing Mortgage Loans**. Specific defaults may require action to be taken sooner or be delayed. For example, the **Borrower** may have filed for bankruptcy protection and, therefore, the Dual Track timeline must be implemented on an accelerated basis or delayed basis. As provided in **Part V, Chapter 7: Non-Performing Mortgage Loans, Section 710.01: Fannie Mae Retains Legal Counsel**, the default resolution process remains a case-specific process and not every case will fit perfectly into this approach and timeline; however, to the extent this Chapter or the **Guide** requires certain actions to be taken within a specific time period, those specific time periods are required.

Date	Track 1	Track 2
March 1	<ul style="list-style-type: none">• Borrower's Mortgage Loan payment is due. Servicer could technically send out a default notice on the 2nd; but, as a practical matter would not unless Servicer knew Borrower was not going to pay.• <u>Or</u>, Lender becomes aware of Borrower default in performance of its non-monetary obligations under the Mortgage Loan.	



Date	Track 1	Track 2
March 2 - 31	<ul style="list-style-type: none"> • Servicer calls Borrower to find out cause of missed payment or default and whether default will be cured by the end of the month or if default will continue into the 2nd month [April]. • If non-monetary default requires notice to Borrower to begin cure time, Servicer sends written notice of default to Borrower. 	<p>The Servicer may contact Fannie Mae Special Asset Management or its Fannie Mae Representative at any time prior to charging the Late Fee to discuss default resolution and whether the Borrower will be able to cure the default. The recommendation of an early transfer to Special Servicing may be discussed.</p>
March 11 (or day when Late Fee can be assessed)	<p>If payment is not received, Borrower is subject to a Late Fees.</p>	
March 11 (or day after Late Fee can be assessed)	<p>If no payment is received, then, under Servicer's letterhead, send out Multifamily No Payment Received Letter – Fees (Optional) Assessed (Form 4807).</p>	
March 11 - 30	<p>If full payment received after Late Fee can be assessed, under Servicer's letterhead, send out Multifamily Late Payment Letter – Fees (Optional) Assessed (Form 4805).</p>	



Date	Track 1	Track 2
	<p>If partial payment received after Late Fee is incurred, under Servicer's letterhead, send out Multifamily Partial Payment Letter – Fees (Optional) Assessed (Form 4806).</p>	
<p>March 17</p>	<p>Servicer reports status of defaulted Mortgage Loans via Multifamily Delinquency System and certifies that all Non-Performing Mortgage Loans have been reported.</p>	
	<p>Before meeting with Borrower to discuss a potential workout, have Pre-Negotiation Form Letter (NOI and Loan Document Provisions) (Form 4811) or Pre-Negotiation Form Letter (Form 4812) executed by Borrower, Servicer, Fannie Mae or Lender.</p>	
<p>March 18 - 31</p>		<ul style="list-style-type: none"> • If Primary Risk, the Mortgage Loan will be special serviced by Fannie Mae. • If Secondary Risk, the Servicer will perform the special servicing.



Date	Track 1	Track 2
March 31	If full payment is not received by end of month, and if permitted by the Mortgage Loan documents, default interest starts and is imposed from the Date of Default [March 1].	
April 1	Borrower's next Mortgage Loan payment is due.	
April 1 - 30	Servicer continues dialogue with Borrower to assess whether default will be cured by end of month or if default will continue into the 3rd month [May].	Fannie Mae remains in contact with the Servicer to discuss collection efforts and whether the Borrower will be able to cure the default. The recommendation of an immediate transfer to Special Servicing may be discussed.
April 15	Due diligence begins for Servicing Transfer Memo/SWAT ; will likely involve meeting with Borrower to obtain factual information and documents.	



Date	Track 1	Track 2
April 10 - 30	<ul style="list-style-type: none"> • For Primary Risk Mortgage Loans Servicer completes Servicing Transfer Memo and forwards to Fannie Mae Special Asset Management. Fannie Mae Special Asset Management and Servicer complete Asset Review. • For Secondary Risk Mortgage Loans Servicer completes SWAT and forwards to Fannie Mae Top Loss Special Asset Management. • An Asset Audit should be completed and forwarded to Fannie Mae Top Loss Special Asset Management if the Course of Action selected on the SWAT is Foreclosure. 	
May 1		<ul style="list-style-type: none"> • If payment is not received, Engagement of Counsel Letter is executed. • Once legal counsel is engaged, all written correspondence with Borrower must be from legal counsel.



Date	Track 1	Track 2
May and June	For Primary Risk Mortgages, Fannie Mae will select Course of Action, unless Lender elects a Lender Purchase or Lender Workout. For Secondary Risk Mortgages, Servicer will select Course of Action in accordance with the approved SWAT.	Legal counsel starts process to enforce assignment of rents and begins foreclosure process.
	Election of remedies implemented.	<ul style="list-style-type: none"> • Primary Risk Mortgage Loans: Foreclosure action continues regardless of Course of Action unless Joint Workout is elected by Fannie Mae and Lender. In that case foreclosure sale would be rescheduled until workout is completed (subject to applicable law). • Secondary Risk Mortgage Loans: SWAT is approved and unless a Joint Workout is approved, the Foreclosure action continues. The Lender purchases the Secondary Risk Mortgage Loan from Fannie Mae either prior to or immediately following the foreclosure sale.

Section 713

Loss Sharing and the Appraisal Process in connection with a Foreclosure Event



713.01 General

713.01A Appraisal Required; Defined Terms

An [Appraisal](#) of the [Property](#) is required in connection with any [Foreclosure Event](#) for a [Mortgage Loan](#) that is subject to Loss Sharing. Capitalized terms in this Section not otherwise defined in the Glossary, shall have the meanings ascribed to them in the Loss Sharing Addendum. In the event of a conflict between the Loss Sharing Addendum and the [Guide](#), the Loss Sharing Addendum will control.

713.01B Compliance with Loss Sharing Addendum

Each [Appraisal](#) must comply with the requirements of the [Guide](#) and the Loss Sharing Addendum. As used in this Section with regard to any required [Appraisal](#), a “manifest error of fact” refers solely to a factual error or omission by the appraiser (such as a math error or an inaccurate reference to the county or other jurisdiction of the [Property](#) location), and not to any disagreement with the appraiser’s discretionary decisions or determinations (such as the appraiser’s use of a particular capitalization rate, comparable properties, or market adjustments).

713.01C Approved Appraisers

Each appraiser engaged to prepare an [Appraisal](#) pursuant to this Section must be approved by Fannie Mae. Periodically, the [Lender](#) must submit the names and, if requested by Fannie Mae, qualifications of its preferred appraisers to Fannie Mae for approval. Fannie Mae and the [Lender](#) each will maintain a current list of all approved appraisers who may provide an [Appraisal](#) under this Section.

713.01D Appraisal Requirements

The following applies to any [Appraisal](#) obtained pursuant to this Section.

- Each [Appraisal](#) and appraiser must comply with [Part II, Chapter 2: Valuation and Income, Section 201: Market and Valuation](#).
- The [Lender](#) must provide the Appraiser Engagement Instruction Form ([Form 4825](#)) when engaging an appraiser to perform an initial [Appraisal](#).
- Fannie Mae will use Engagement Letter for Appraiser ([Form 4823](#) or [Form 4826](#)) or Engagement Letter for Review Appraiser ([Form 4824](#)) to engage an appraiser



performing an initial [Appraisal](#) or a subsequent [Appraisal](#) (as applicable).

- All communication with a jointly engaged appraiser regarding the valuation of the [Property](#) must include joint participation by members of the appraisal review groups from both Fannie Mae and the [Lender](#).
- If the [Property](#) has unused [Low-Income Housing Tax Credits](#) or other tax credits that transferred to Fannie Mae as a result of a [Foreclosure Event](#), the [Asset Value](#) as of the [Asset Valuation Date](#) will be the greater of (i) the value of the [Property](#) “as restricted”, plus the value of the unused tax credits, or (ii) the “as-is” market value of the [Property](#). Fannie Mae and the [Lender](#) will engage either the appraiser or another third party to value such unused tax credits.
- Both Fannie Mae and the [Lender](#) must use an independent appraisal review group to allow appropriate communication with the appraisers, and to ensure consistent valuation practices and quality control. The appraisal review group may be either:
 - employees of Fannie Mae or the [Lender](#), such as multifamily mortgage underwriters, who are not required to hold state appraisal licenses or certifications, but who are independent from their employers’ asset management and special servicing functions; or
 - an independent third-party appraisal firm.
- Fannie Mae and the [Lender](#) will provide to each engaged appraiser the most recent of the [Property’s](#) engineering, environmental, and [Property Condition Assessment](#) reports; each of which will be obtained jointly using the standard Engagement Letter for Engineering Consultant ([Form 4821](#)) or Engagement Letter for Environmental Consultant ([Form 4822](#)).
- If the [Foreclosure Event](#) is delayed, or if the [Asset Valuation Date](#) is not within 90 days after the date of the [Appraisal](#) that determines the [Asset Value](#) for Loss Sharing, either Fannie Mae or the [Lender](#) may require that the [Appraisal](#) be updated to reflect the [Property’s](#) value as of the [Asset Valuation Date](#). Any [Property Condition Assessment](#) or [Phase I Environmental Site Assessment](#) used for the first [Appraisal](#) may be updated if either Fannie



Mae or the Lender requires the Appraisal to be updated.

Following the receipt by the Lender of the Appraisal Notice referred to in this Section, if the Lender fails to cause an Appraisal to be conducted in accordance with the applicable timeline for the Single Appraisal Approach or the Dual Appraisal Approach, the Property's Appraised Value will be determined exclusively by an appraiser selected by Fannie Mae, and the Lender will be deemed to have waived any right to challenge such valuation. Updates required due to material changes in market or Property conditions, including, but not limited to, changes in access and control of the Property, will be addressed on a case by case basis.

Nothing shall prohibit Fannie Mae from ordering its own Appraisal, Property Condition Assessment, or Phase I Environmental Site Assessment in conjunction with its activities as the Special Servicer for the Mortgage Loan (e.g., for litigation contesting the Property's Appraised Value, to determine foreclosure bidding strategy, in connection with a Borrower's bankruptcy action, or other similar needs). However, any Appraisal, Property Condition Assessment, or Phase I Environmental Site Assessment obtained to determine the Asset Value must be obtained in accordance with this Section.

713.01E Appraisal Notice and Election of Appraisal Methodology

If an Appraisal is required to determine the Property's Asset Value for any reason, including the commencement of the process described in Part V, Chapter 7: Non-Performing Mortgage Loans in connection with a Foreclosure Event, Fannie Mae will notify the Lender (the "Appraisal Notice").

Within 4 Business Days after receipt of the Appraisal Notice from Fannie Mae, the Lender must elect, by written notice (e.g., e-mail) to its Fannie Mae Representative in Special Asset Management, to use either the Single Appraisal Approach or the Dual Appraisal Approach. Once made, the Lender's election will be binding on the Lender and Fannie Mae with respect to that Property and Mortgage Loan, and may not be changed unless mutually agreed upon in writing.

If the Lender fails to elect an Appraisal approach within the allotted time period, the Single Appraisal Approach will be used. However, if the Lender elects the Single Appraisal Approach, and Fannie Mae and the Lender are unable to jointly select and engage an appraiser as required by this Section, the Dual Appraisal Approach will be used.



713.02 Single Appraisal Approach

This Section outlines the recommended timeline and process to obtain an [Appraisal](#) using the Single Appraisal Approach, as further described in the Loss Sharing Addendum. Several variables may alter this timeline; however, the objective is to obtain a final [Appraised Value](#) as of the [Asset Valuation Date](#).

713.02A Single Appraisal Approach Timeline

1. Fannie Mae will order any required [Property Condition Assessment](#) or [Phase I Environmental Site Assessment](#) within [4 Business Days](#) after the [Appraisal Notice](#), using the Engagement Letter for Engineering Consultant ([Form 4821](#)) or the Engagement Letter for Environmental Consultant ([Form 4822](#)).
2. The [Lender](#) will submit to Fannie Mae a short list of 2 or 3 preferred appraisers from the [Lender's](#) list of approved appraisers.
3. Fannie Mae will select an appraiser from the [Lender's](#) short list within [8 Business Days](#) after its [Appraisal Notice](#), and the appraiser will be engaged jointly by Fannie Mae and the [Lender](#) pursuant to the standard Engagement Letter for Appraiser (Joint Engagement) ([Form 4823](#)). Fannie Mae and the [Lender](#) will provide the appraiser with all appropriate information reasonably required to complete the [Appraisal](#) in a timely fashion.
4. The appraiser should be instructed to deliver the draft [Appraisal](#) within [20 Business Days](#) after engagement.

713.02B Draft Appraisal Review

1. Fannie Mae and the [Lender](#) will each complete a review of the draft [Appraisal](#) within [10 Business Days](#) after receipt. A joint conference call may be held with the appraiser, if requested by either Fannie Mae or the [Lender](#). If either Fannie Mae or the [Lender](#) determines it is necessary, review comments and pertinent factual information will be provided to the appraiser and the other party. The joint conversation and information delivery are expected to occur within [15 Business Days](#) after receipt of the draft [Appraisal](#).
2. The appraiser should be instructed to deliver the revised



draft **Appraisal** within 5 **Business Days** of receipt of comments and information.

3. Fannie Mae and the **Lender** will each complete a review of the revised draft **Appraisal** within 5 **Business Days** after receipt.

713.02C Acceptable Draft Appraisal

If the draft **Appraisal** is acceptable to both Fannie Mae and the **Lender**, the draft **Appraisal** will be finalized and the final **Appraised Value** will be the **Asset Value**. Prior to issuing the final **Appraisal**, the appraiser may address any factual errors or other issues that both parties agree should not materially impact the **Appraised Value**. The appraiser will be expected to deliver the final **Appraisal** within 5 **Business Days** of the request for the final **Appraisal**.

713.02D Non-Acceptable Draft Approach

1. If either Fannie Mae or the **Lender** does not accept the draft **Appraisal** and believes that discussions with the appraiser would not result in an acceptable **Appraisal**, notice will be given to the other party that the **Appraisal** is unacceptable. Within 8 **Business Days** after either party receives such notice:
 - a second appraiser will be selected by Fannie Mae from the **Lender's** list of approved appraisers;
 - the second appraiser will be engaged jointly by Fannie Mae and the **Lender** pursuant to the standard Engagement Letter For Review Appraiser (Joint Retention) (**Form 4824**); and
 - the first **Appraisal**, written comments by Fannie Mae and the **Lender** (if any), and pertinent **Property** information will be shared with the second appraiser.
2. The second appraiser will examine the first **Appraisal**, and then initiate a joint call with representatives of Fannie Mae and the **Lender** within 10 **Business Days** after delivery of the first **Appraisal** and supplemental information.
3. The second appraiser will develop an independent opinion of the **Asset Value** as of the **Asset Valuation Date**, and prepare an **Appraisal** consistent with the Engagement Letter for Review Appraiser (Joint Retention) (**Form 4824**).



The second appraiser should be instructed to deliver the **Appraisal** within 15 **Business Days** after the joint conference call.

4. The second **Appraisal** will be accepted, and the **Appraised Value** will be the **Asset Value** for Loss Sharing, without further review or consent by either Fannie Mae or the **Lender**, unless there is a manifest error of fact in the second **Appraisal**.
5. If either Fannie Mae or the **Lender** determines that the second appraiser has made a manifest error of fact, the correct factual information will be provided to the appraiser and the other party within 10 **Business Days** after receiving the second **Appraisal**.
6. The second appraiser will be expected to deliver a corrected final **Appraisal** within 5 **Business Days** after being advised of a manifest error of fact in the second **Appraisal**.
7. The corrected final **Appraisal** will be accepted, and the final **Appraised Value** will be the **Asset Value** for Loss Sharing, without further review or consent by either Fannie Mae or the **Lender**.

713.03 Dual Appraisal Approach

This Section outlines the recommended timeline and process to obtain an **Appraisal** using the Dual **Appraisal Approach**, as further described in the Loss Sharing Addendum. Several variables may alter this timeline; however, the objective is to obtain a final **Appraised Value** as of the **Asset Valuation Date**.

713.03A Dual Appraisal Approach Timeline

1. Fannie Mae will order any required **Property Condition Assessment** or **Phase I Environmental Site Assessment** within 4 **Business Days** after the **Appraisal Notice**, using the Engagement Letter for Engineering Consultant (**Form 4821**) or the Engagement Letter for Environmental Consultant (**Form 4822**).
2. The **Lender** and Fannie Mae will each select and engage an appraiser from their individual lists of approved appraisers within 8 **Business Days** after the **Appraisal Notice**. The **Lender** will engage its appraiser pursuant to the standard Appraiser Engagement Instruction Form



(Form 4825), and Fannie Mae will engage its appraiser pursuant to the standard Appraiser Engagement Letter for Appraiser (Fannie Mae Retention) (Form 4826).

3. Each appraiser should be instructed to deliver a final **Appraisal** within 35 **Business Days** after both appraisers have been engaged. Fannie Mae and the **Lender** will share copies of their respective final **Appraisals** with each other.

713.03B Average of Appraised Values

If the 2 **Appraised Values** differ by 10% or less, the average of the 2 **Appraised Values** will be the **Asset Value** for Loss Sharing.

713.03C Third Appraisal

1. If the 2 **Appraised Values** differ by more than 10%, within 4 **Business Days** after receipt of the final **Appraisals**:
 - a third appraiser will be selected by Fannie Mae from the **Lender's** list of approved appraisers;
 - the third appraiser will be engaged jointly by Fannie Mae and the **Lender** pursuant to the standard Engagement Letter for Review Appraiser (Joint Retention) (Form 4824); and
 - the first 2 **Appraisals**, written comments by Fannie Mae and the **Lender** (if any), and pertinent **Property** information will be shared with the third appraiser.
2. The third appraiser will initiate a joint conference call with representatives from Fannie Mae and the **Lender** to discuss the first 2 **Appraisals** within 10 **Business Days** after delivery of the first 2 **Appraisals** and Fannie Mae's and the **Lender's** comments.
3. The third appraiser will develop an independent opinion of the **Asset Value** as of the **Asset Valuation Date**, and prepare an **Appraisal** consistent with the Engagement Letter for Review Appraiser (Joint Retention) (Form 4824). The third appraiser should be instructed to deliver the **Appraisal** within 15 **Business Days** after the joint conference call.
4. The third **Appraisal** will be accepted and the **Appraised Value** will be the **Asset Value** for Loss Sharing, without



further review or consent by either Fannie Mae or the [Lender](#), unless there is a manifest error of fact in the third [Appraisal](#).

5. If either Fannie Mae or the [Lender](#) determines that the third appraiser has made a manifest error of fact in its [Appraisal](#), the correct factual information will be provided to the third appraiser and the other party within 10 [Business Days](#) after receiving the third [Appraisal](#).
6. The third appraiser will be expected to deliver a corrected final [Appraisal](#) within 5 [Business Days](#) after being advised of a manifest error of fact.
7. The corrected final [Appraisal](#) will be accepted, and the final [Appraised Value](#) will be the [Asset Value](#) for Loss Sharing, without further review or consent by either Fannie Mae or the [Lender](#).



GLOSSARY

- **FHFA**

Federal Housing Finance Agency.