

Bulletin

NUMBER: M2013-1

TO: Freddie Mac Multifamily Sellers and Servicers

February 28, 2013

SUBJECTS

With this Bulletin for the Multifamily Seller/Servicer Guide (Guide), we are:

- Eliminating the Branch Expansion Request application fee and clarifying our requirements for requesting a branch expansion
- Revising our provisions for Borrowers, Borrower Principals and guarantors to require:
 - The Borrower to be an entity formed in the United States
 - Each Borrower Principal with direct ownership in the Borrower to be a United States citizen or entity
 - Foreign guarantors or United States citizen guarantors who reside abroad to meet certain requirements in order to be acceptable to Freddie Mac
 - Seller's counsel to provide Freddie Mac with the new Investment Fund Analysis form as part of the preliminary legal issues memorandum (PLIM) for a Borrower Principal or guarantor that is an investment fund
- Updating and reformatting our provisions regarding legal services in Chapter 6
- Adding a requirement to provide an analysis of title policy exceptions for condominium/cooperative conversion restrictions
- Expanding Seller/Servicer responsibilities with respect to the retention and management of the environmental consultant and the property condition consultant
- Adding a section to the Form 1110M – Multifamily Annual Certification Report – Servicer Only to collect custodial account information
- Removing references to the underwriting provisions in the Delegated Underwriting for Targeted Affordable Housing (TAH) Guide
- Clarifying Seller/Servicer warranties with respect to third-party documents
- Directing Seller/Servicers to submit executed Letter Agreements to Customer Compliance Management

Effective dates

All of the changes announced by this Bulletin are effective immediately.

Conclusion

More details on these changes are provided on the pages that follow. For complete details see the applicable chapters and sections of the Guide on AllRegs. All Guide text for the changes described in this Bulletin is highlighted in green. Effective with this Bulletin, highlighted text will be used to indicate Guide text that has been revised in the current calendar year.

If you have any questions about the content of this Bulletin, please call your Freddie Mac representative.

Sincerely,

David Brickman
Senior Vice President
Multifamily

Elimination of the Branch Expansion Request Application Fee and Clarification of Instructions

We are eliminating the nonrefundable application fee that Program Plus Seller/Service providers previously submitted with a Branch Expansion Request. We are also clarifying that Program Plus Seller/Service providers must contact the applicable Freddie Mac Multifamily Regional Office for instructions on submitting a request for approval of a new branch production office in a designated geographic area, or to assign an additional geographic area to an approved branch production office. This change has been made to Section 3.2.

Revisions Affecting Borrowers, Borrower Principals and Guarantors

We are clarifying our requirements with respect to Borrowers whose ownership structure includes foreign entities and guarantors who are foreign individuals, foreign entities or United States citizens residing abroad. In addition, we are introducing a new form to be completed by the Seller's counsel when any Borrower Principal or guarantor is an investment fund.

Borrowers and Borrower Principals

We have revised Section 9.2 to require the Borrower to be an entity formed in the United States and each Borrower Principal with a direct ownership in the Borrower to be a United States citizen or entity. However, an entity formed in a foreign country may hold a direct or indirect interest in a United States-chartered Borrower Principal that has a direct ownership interest in the Borrower.

Foreign Guarantors

We have added Section 9.11 to state that Freddie Mac may approve a guarantor that is

- A United States citizen who does not reside in the United States,
- Not a United States citizen, or
- Not a United States entity.

If Freddie Mac approves such a guarantor, the guarantor may be required to

- Appoint an agent in the United States acceptable to Freddie Mac for service of process
- Maintain, in an account held by a United States bank acceptable to Freddie Mac, a minimum liquidity of 10 percent of the original principal balance of the Mortgage, or other amount required by Freddie Mac
- Deliver an opinion of counsel, provided by a firm acceptable to Freddie Mac, as to the enforceability of a United States judgment in the guarantor's country of origin, formation or residence, and an outline of the requirements for domesticating a United States judgment in such country

Investment Fund Analysis Form

For a Borrower Principal or guarantor that is an investment fund, we are adding a requirement for the Seller's counsel to complete the new Investment Fund Analysis form, which is available on the Multifamily Loan Documents page on FreddieMac.com. The Seller's counsel must prepare and deliver the Investment Fund Analysis as part of the PLIM, and must update the Investment Fund Analysis form if more information becomes available after the PLIM has been submitted.

We have added Section 6.4(j) and Section 9.10 to reflect this change.

Updates to our Requirements regarding Legal Services

We are updating and reformatting our provisions in Chapter 6, Legal Services for Mortgage Origination and Servicing, for greater ease of use. The changes to Sections 6.2, 6.4(a)-(i), 6.5 and 6.12 are administrative in nature. We are removing outdated documents from the list of documents requiring document analysis and the lists of documents to be reviewed prior to Mortgage purchase or a Transfer of Ownership in Sections 6.7, 6.10(b) and 6.11(b). In Section 6.8 we are adding language to require the Seller/Serviceicer and its legal counsel to analyze any requested changes to any Freddie Mac standard form document for a Bond Credit Enhancement transaction.

Exception for Condominium/Cooperative Conversion Restriction

We are adding a requirement in Section 29.2(g) concerning title policy exceptions. If the title policy contains an exception for a prohibition against or an indemnification in connection with the conversion of the Property to a condominium or cooperative structure, the Seller or its counsel must provide Freddie Mac with a completed Condominium/Cooperative Conversion Restriction Analysis. The form for the Condominium/Cooperative Conversion Restriction Analysis can be found on the Multifamily Loan Documents page on FreddieMac.com.

Seller/Serviceicer Responsibilities Concerning Consultants

We are expanding Seller/Serviceicer responsibilities with respect to environmental and property condition consultants. When retaining the environmental consultant or the property condition consultant, Seller/Serviceicers must now

- Review and verify the credentials, licensing, certifications, memberships and affiliations of each consultant
- For new consultants, check at least three references from lenders who have previously employed or retained the consultant to evaluate the consultant's capabilities and performance

To assist in managing a consultant's performance, the Seller/Serviceicer must maintain a separate file for Freddie Mac's use that includes the Seller's ongoing evaluations of each consultant's performance, and the consultant's current resume, required references and original certificates of liability insurance.

We have added these changes to Sections 13.1(b) and 14.2.

Collection of Custodial Account Information included on the Form 1110M

We are notifying Serviceicers that we have added a section on the Form 1110M – Multifamily Annual Certification Report – Serviceicer Only to collect information regarding all Freddie Mac P&I and T&I custodial accounts that are currently open.

Removal of references to the TAH Guide

We are removing the references to underwriting provisions in the TAH Guide from Sections 19.2, 19A.1(c), 28.3 and 28A.1(d). These underwriting provisions no longer apply to Mortgages originated under the Targeted Affordable Housing Cash Mortgage Purchase Program or the Targeted Affordable Housing Bond Credit Enhancement Program utilizing the prior approval model.

Warranties with Respect to Third-Party Documents

In Section 5.3(a), we are clarifying that the Seller/Servicer warranties with respect to third-party documents apply to those third-party documents that the Seller/Servicer delivers to Freddie Mac.

Letter Agreements for Custodial Accounts

We now require Seller/Servicers to submit their executed Letter Agreements to Customer Compliance Management. In addition, if a Seller/Servicer has questions regarding the eligibility of a depository institution, the Seller/Servicer may contact Multifamily_Eligibility@FreddieMac.com or may subscribe to any of the rating services at the Seller/Servicer's own expense. Freddie Mac does not assume responsibility for notifying a Seller/Servicer of an institution's eligibility status. The Guide Directory and Guide Sections 52.6, 52.9 and 52.10 have been revised to reflect these changes.