

Multifamily Seller/Servicer Guide

Chapter 9SBL

SBL Borrower/Borrower Principal Fundamentals

9SBL.1 Introduction (06/30/16)

This chapter details Freddie Mac's Borrower and Borrower Principal requirements for an SBL Mortgage. These requirements may also apply to Special Servicing Requests when appropriate.

9SBL.2 Borrower and Borrower Principal requirements

a. General Borrower requirements (09/30/20)

1. The following types of Borrower are generally acceptable:
 - Limited partnership
 - Limited liability partnership
 - Limited liability company
 - Real estate investment trust (REIT)
 - Irrevocable trusts meeting the requirements of Section 9SBL.6
 - Tenancy-in-Common (TIC) meeting the requirements of Section 9SBL.12, provided the TIC has five or fewer members
2. The following types of Borrower are not permitted:
 - Land trusts or business trusts (including Delaware Statutory Trusts)
 - Pension or retirement funds or accounts
 - Not-for-profit corporations
3. The following types of Borrower may be approved by Freddie Mac in its discretion:
 - Individual
 - Revocable trust meeting the requirements of Section 9SBL.6
 - General partnership
 - For-profit corporation

- Restricted Multiple Asset Entity meeting the requirements of Section 9SBL.2(b)(3)
- 4. If an entity, Borrower must be organized in the United States. If an individual, Borrower must be (i) either a citizen residing in the United States or a permanent legal resident of the United States (ii) and have FICO® scores of 680 or better with at least two of the national credit bureaus (Equifax, TransUnion or Experian) or an average FICO score of 680 or better with all three national credit bureaus.
- 5. If an Equity Conflict of Interest as defined in Section 2.25 exists, then the Seller must disclose the nature and extent of the conflict in writing to Freddie Mac when the Seller delivers the full underwriting package. The Seller must notify Freddie Mac in writing immediately if an Equity Conflict of Interest arises following delivery of the underwriting package to Freddie Mac.
- 6. Borrower must not be involved in any active bankruptcy, foreclosure, deed in lieu of foreclosure, or other liquidation proceeding.

b. Borrower Single Asset Entity (SAE) and Restricted Multiple Asset Entity (Restricted MAE) requirements (02/28/20)

1. Unless either of the following scenarios apply, Borrower must be a Single Asset Entity (SAE), the full requirements for which are set out in the Loan Documents:
 - (i) Borrower is an individual or revocable trust approved by Freddie Mac
 - (ii) Borrower is a Restricted Multiple Asset Entity (Restricted MAE) approved by Freddie Mac that satisfies the conditions specified in Section 9SBL.2(b)(3)
2. If Borrower is an SAE, the Property must be Borrower's sole asset and the operation of the Property must be the Borrower's sole business. Generally, a Borrower that is organized as a Single Purpose Entity (SPE) also satisfies the SAE requirements.
3. If a Restricted MAE Borrower is approved by Freddie Mac, in addition to the requirements set out in the Loan Documents, all the following additional conditions apply:
 - (i) The Property and any additional real property disclosed in writing to Seller prior to Origination (Additional Permitted Property) must be Borrower's only assets.
 - (ii) The operation of the Property and the Additional Permitted Property must be the Borrower's sole business.
 - (iii) Borrower may not acquire assets beyond the Property and the Additional Permitted Property after Origination.
 - (iv) Borrower may sell, finance, or refinance all or a portion of the Additional Permitted Property during the term of the Loan.

c. Borrower Principal (including Guarantor) requirements (12/15/20)

1. A Borrower Principal (including all Guarantors), must satisfy all of the following requirements:
 - Be an individual, or if approved by Freddie Mac, an entity formed in the United States
 - If an individual, must either be a citizen residing in the United States, a permanent legal resident of the United States, or an individual meeting the Foreign Borrower Principal requirements in Section 9SBL.2(e)
 - If an individual is identified as the Borrower Principal with the primary responsibility for the daily operations of the Property, they must reside within 100 miles of the Property
2. In addition to the requirements set forth above, at the time of Seller Application, at least one Borrower Principal with Control of Borrower must either:
 - Have had Control (including through an entity) as the owner of a multifamily property (which may include the Property) for at least the five preceding years, without interruption, or
 - Have had Control of and owned an equity interest in (including through an entity) at least three multifamily properties (which may include the Property), together with Control (including through an entity) of at least one of these multifamily properties for the preceding two years, without interruption.

d. Guarantor requirements (09/30/20)

In addition to the Borrower Principal requirements in Section 9SBL.2(c), a Guarantor must satisfy all of the following requirements:

- Demonstrate a minimum net worth that is equal to the SBL Mortgage amount
- Demonstrate liquidity equal to nine months of amortizing debt service before origination of the SBL Mortgage
- Must not be involved in any active bankruptcy, foreclosure, deed in lieu of foreclosure, or other liquidation proceeding, either directly or through any entities owned in whole or in part by the guarantor
- If an individual, must have FICO® scores of 680 or better with at least two of the national credit bureaus (Equifax, TransUnion or Experian) or an average FICO score of 680 or better with all three national credit bureaus
- If an entity, must provide evidence of at least twice the minimum net worth and liquidity requirements

e. Foreign Borrower Principal (including Foreign Guarantor) (04/30/19)

Freddie Mac may approve a Borrower Principal that is any of the following:

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

Freddie Mac may also approve such a Borrower Principal as a guarantor (Foreign Guarantor) provided each of the following requirements apply:

- Foreign Guarantor must manage and/or own United States real estate assets other than the Property, and have a demonstrated understanding of United States real estate practices,
- Foreign Guarantor must appoint an unaffiliated agent in the United States acceptable to Freddie Mac for service of process on behalf of the guarantor (for example, an attorney or a company whose business is to accept service of process for its customers), and
- If there is no financially compliant United States guarantor, the Foreign Guarantor must:
 - Provide evidence of at least 2x the minimum net worth and liquidity requirements
 - Maintain a minimum liquidity in one or more U.S. bank accounts equal to five percent of the original principal balance of the SBL Mortgage, or such other amount as Freddie Mac may require; the bank(s) holding the account must be acceptable to Freddie Mac
 - If there is more than one Foreign Guarantor, the minimum net worth and liquidity requirements and the minimum five percent liquidity requirement may be satisfied in the aggregate by the Foreign Guarantors exclusive of any U.S. guarantor liquidity

f. Reserved (09/26/19)

g. Borrower requirements specific to Crowdfunding (02/28/20)

No direct or indirect interest in Borrower may consist of investments raised via Crowdfunding.

9SBL.3 Persons or entities unacceptable as Borrowers, Borrower Principals and guarantors

a. Unacceptable persons or entities (09/28/18)

Freddie Mac will not purchase any Mortgage or allow any Transfer of Ownership under Chapter 41SBL, or approve any other Servicing-related transaction if it determines that any of the following is true with regard to a Borrower, Borrower Principal, or guarantor or any person or entity that is proposed as a potential Borrower, Borrower Principal or guarantor:

1. Is a confirmed match to a name on any of the following lists:
 - OFAC Specially Designated Nationals and Blocked Persons List

- OFAC Consolidated Sanctions List
 - FHFA Suspended Counterparty List (subject to any conditions or exclusions set forth in the final suspension order)
 - Freddie Mac Exclusionary List
2. Has a civil or criminal conviction for the commission of terrorism, terrorism financing, or money laundering
 3. Has a civil or criminal conviction in connection with a financial crime such as embezzlement, fraud, misappropriation of funds or breach of fiduciary duty
 4. Is named as an accused or defendant in any pending or current criminal or civil proceeding relating to any of the crimes set forth in subsection 2 and 3 above
 5. Is insolvent or the subject of a pending bankruptcy or similar proceeding
 6. Is an adverse party to Freddie Mac in any pending or current litigation

b. Potentially unacceptable persons or entities (09/28/18)

Freddie Mac, in its sole discretion, may refuse to enter into a Letter of Commitment to purchase a Mortgage or allow any Transfer of Ownership under Chapter 41SBL, or approve any other Servicing-related transaction if a Web Based Negative News search indicates any of the following with regard to a Borrower, Borrower Principal, or guarantor or any person or entity that is proposed as a potential Borrower, Borrower Principal or guarantor or any person or entity that Controls any Borrower, Borrower Principal, or guarantor:

1. Adverse information regarding Financial Crime
2. Negative credit events
3. Adverse actions that may pose a reputational risk for Freddie Mac including prior suits by tenants for improperly maintaining facilities with regard to insects or rodent pest control or other negative news events

9SBL.4 Reserved (06/30/16)

9SBL.5 Reserved (06/30/16)

9SBL.6 Trusts

a. Trust underwriting requirements (06/30/16)

In addition to its ordinary underwriting procedures, the Seller must take the following steps when reviewing an application for an SBL Mortgage to a trust Borrower or for an SBL Mortgage with a trust guarantor. The Seller must examine the trust agreement to determine that it has

received a complete copy of the trust agreement, including all amendments, and if the trust is a revocable trust (also known as a living or inter vivos trust), that each of the following requirements are satisfied:

- The settlor (also known as the grantor) is still alive.
- The settlor is the trustee or one of the co-trustees or there is an institutional trustee.
- If the trust is a Borrower, the settlor is a co-Borrower with the trust or a guarantor.
- If the trust is a guarantor, the settlor is a co-guarantor with the trust.

b. Trust legal requirements (06/29/17)

1. Legal analysis

For all trust Borrowers and trust guarantors, Single Counsel must examine the trust agreement to determine that the trust meets all of the following conditions in addition to meeting the general conditions set forth in Section 9SBL.7, where applicable.

- a. The beneficiary does not need to grant written consent for the trust to borrow money or to guarantee the debt of another entity (as applicable); or, if the beneficiary must grant such consent, the beneficiary has granted the consent in writing for purposes of the SBL Mortgage.
- b. If the trust is a Borrower, each of the following conditions must be satisfied:
 - There are no statutory or contractual restrictions on the activities of the trust or the trustee that would impair the Borrower's ability to hold and manage the Property.
 - There is no unusual risk of impairment of Lender's rights (for example, the trust agreement should only permit distributions to be made from net income remaining after payment of amounts due under the SBL Mortgage).
 - A lender can enforce its security interest in the trust property in the event of a default.
 - The title insurer will provide full title protection to Freddie Mac, without exception for the trust structure.
 - The form of identification of the Borrower in the deed conveying the Property to the trustee or trust is the same as that in each Loan Document and the title policy is the same as the form in which the Borrower holds title to the Property.
- c. If the trust is a guarantor, each of the following conditions must be satisfied:
 - The trustee is authorized to guarantee the debts of another entity.
 - There are no statutory or contractual restrictions on the activities of the trust or the trustee that would impair the guarantor's ability to guarantee the SBL Mortgage.

If the trust or the trust agreement does not meet the requirements set forth above, and the trust or the trust agreement will not be modified prior to the Origination Date of the SBL Mortgage to comply with all of the requirements, Single Counsel must provide Freddie Mac with a description of the differences and recommendations as to whether and why Freddie Mac should accept the trust or trust agreement without them being fully compliant with this Section 9SBL.6.

9SBL.7 Review of Borrower and Borrower Principal organizational documents (10/12/17)

Single Counsel must review the organizational documents for any entity (including a trust) that is a Borrower or Borrower Principal (including an entity guarantor) to ensure that the following conditions are met:

1. The entity is validly formed under the laws of the State in which it was organized.
2. For the Borrower and the general partner of a general partnership Borrower only, the entity is qualified to do business in the State in which the Property is located.
3. The entity does not expire, or in the case of an investment fund, have a termination date, during the term of the SBL Mortgage.
4. The entity has the required organizational power to execute, deliver and perform its obligations under the Loan Documents or the Guaranty (as applicable).
5. The individual executing the Loan Documents or the Guaranty (as applicable) on behalf of the entity has been properly authorized by the entity to take such actions on its behalf.
6. The entity complies with any additional Freddie Mac conditions set forth in the Guide or the Letter of Commitment.
7. There is no risk of impairment of Freddie Mac's rights resulting from the structure or operation of the entity that would be unacceptable to a prudent institutional lender originating a mortgage loan secured by a comparable property in the same locale as the Property.

If the organizational documents do not meet the requirements set forth above, and the organizational documents will not be modified prior to the Origination Date of the SBL Mortgage to comply with all of the requirements, Single Counsel must provide Freddie Mac with a description of the differences and recommendations as to whether and why Freddie Mac should accept the organizational documents without them being fully compliant with this Section 9SBL.7.

9SBL.8 Adverse circumstances—Borrower (06/30/16)

Seller may not be aware of any circumstances or conditions involving the credit standing of the Borrower that adversely affect the value or marketability of the SBL Mortgage.

9SBL.9 Reserved (06/30/16)

9SBL.10 Reserved (03/03/17)

9SBL.11 Reserved (06/30/16)

9SBL.12 Tenancy-in-common (TIC) (06/30/16)

A TIC may be an eligible Borrower if it meets all of the following conditions:

- There may not be more than 5 TIC owners.
- Unless otherwise approved by Freddie Mac, each TIC owner must be an SAE.
- The TIC owners must enter into a tenant in common agreement (“TIC Agreement”).
- The TIC owners and the TIC Agreement must satisfy the requirements set forth in the “Tenant in Common Borrowers – Minimum Requirements (SBL)” document available on FreddieMac.com.

If the TIC owners or the TIC Agreement do not meet the requirements set forth above, and the TIC owners or the TIC Agreement will not be modified prior to the Origination Date of the SBL Mortgage to comply with all of the requirements, Single Counsel must provide Freddie Mac with a description of the differences and recommendations as to whether and why Freddie Mac should accept the TIC owners or the TIC Agreement without them being fully compliant with this Section 9SBL.12.

9SBL.13 Borrower/Borrower Principal public record searches (10/14/16)

The Public Records searches required in Section 18SBL.30, including credit reports, web searches, bankruptcy, tax lien, criminal and litigation searches, must be conducted within 60 days prior to the submission of the full underwriting package to Freddie Mac for each SBL Mortgage.

9SBL.14 Very Small Markets -- Borrower/Borrower Principal due diligence and geographic proximity (06/29/17)

If a Property is located in a Very Small Market, and either (i) the Borrower is an individual or is wholly owned (whether directly or indirectly) by the guarantor, or (ii) any Borrower Principals in the transaction do not have an established relationship with Freddie Mac or the SBL Seller/Servicer, then the SBL Seller/Servicer must provide each of the following in its underwriting package for the SBL Mortgage:

- One Seller/Servicer verified bank reference for all Borrowers and Borrower Principals
- Property-level bank statements for the last three months

The above documents must be submitted in accordance with Chapter 55SBL.