



Bulletin

NUMBER: M2020-1

TO: Freddie Mac Multifamily Sellers and Servicers

February 28, 2020

SUBJECTS

In the February 28, 2020 Guide Bulletin, we are:

- Announcing we have registered a trademark for the Optigo® name
- Clarifying a Seller/Servicer's ongoing obligation to demonstrate sufficient financial capacity
- Updating our requirements to indicate that non-SBL Seller/Servicers must use the Legal Issues Analysis form (LIA) to prepare the preliminary legal issues memorandum (PLIM) required prior to loan origination
- Revising our requirements regarding Small Balance Loan (SBL) Borrowers
- Modifying the following requirements for TAH Mortgages
 - Updating the eligibility requirements for TAH Mortgages
 - Updating our requirements for Preservation Rehabilitation Mortgages to include payment and performance bonds
 - Adding requirements for a Mortgage secured by a LIHTC Property using the Income Averaging Set-Aside found in the Consolidated Appropriations Act of 2018
 - Requiring an appraiser to provide an additional valuation scenario in an Appraisal for a Preservation Rehabilitation Mortgage
- Clarifying the Servicer's reporting requirements for Value-Add Loans
- Retiring the Manufactured Housing Community Questionnaire
- Making minor housekeeping changes to our requirements for radon testing and to Form 1105, *Property Condition Assessment*

Effective dates

All revisions announced by this Bulletin are effective immediately.

Conclusion

More details on these changes are provided on the pages that follow. Guide text for the changes announced in this Bulletin is highlighted in green on AllRegs. If you have any questions about this Bulletin, please call your Freddie Mac representative.

Sincerely,

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Multifamily Underwriting and Credit

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Senior Vice President
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Optigo® is now a registered trademark

Optigo® is now a registered trademark with the United States Patent and Trademark Office. Lenders in our Optigo network should discontinue use of the service mark symbol (SM) and begin to use the registered trademark symbol ® when they first reference the Optigo name in written materials. Section 2.10 is being updated to reflect this change.

Seller/Servicers' ongoing obligations to demonstrate sufficient financial capacity

We are revising Section 3.3 to clarify that Seller/Servicers have an ongoing obligation to demonstrate sufficient financial capacity to fulfill their obligations to Freddie Mac. Freddie Mac will periodically review Seller/Servicers' financial condition to determine that financial capacity remains sufficient.

Legal Issues Analysis form

We are now requiring non-SBL Sellers to complete and submit the Legal Issues Analysis form, available on FreddieMac.com, when preparing the preliminary legal issues memorandum (PLIM) required by Section 6.4. Please note that the Legal Issues Analysis form is used at the time of loan origination. The Preliminary Legal Issues Memorandum Form – Servicing will continue to be used to prepare the PLIM for Servicing transactions.

Sections 6.4(b), 22.14 and 55.2 and the Conventional and TAH Underwriting Checklists are being updated to reflect this change.

SBL Borrower requirements

Potentially permitted SBL Borrowers

We are revising Section 9SBL.2 to indicate that a general partnership, a for-profit corporation, and a Restricted Multiple Asset Entity (Restricted MAE) that meets the requirements of Section 9SBL.2(b)(3) may be permitted as a Borrower for an SBL Mortgage with the approval of Freddie Mac.

SBL Borrower requirements specific to Crowdfunding

We are clarifying that no direct or indirect interest in the Borrower may consist of investments raised via Crowdfunding.

See Section 9SBL.2(g) for this change.

Updates specific to our Targeted Affordable Housing Requirements

Eligibility Requirements

We are updating and clarifying our eligibility requirements for TAH Mortgages, including eligibility for Forward Commitments. While most of these updates are not substantive in nature, we are removing the prohibition on having interest-only periods for a Mortgage with a term of 10 years.

Concerning Forward Commitments, we are adding that Preservation Rehabilitation Mortgages and Bridge to Resyndication Mortgages are not eligible.

See Sections 19.2(a), 19A.1(b), 25A.1(c), and 28A.1(c) for these changes.

Income Averaging

We are adding to the Guide the requirements for a Mortgage secured by a LIHTC Property using the Income Averaging Set-Aside found in the Consolidated Appropriations Act of 2018. Freddie Mac will only purchase or credit enhance Mortgages secured by LIHTC Properties electing the Income Averaging Set-Aside if the election has been made in the tax credit application and the reservation letter [or the Internal Revenue Code (IRC) Section 42(m) letter, if applicable] and is reflected in the final IRS Form 8609(s), Low-Income Housing Credit Allocation and Certification.

The PLIM and/or the regulatory agreement analysis for the LIHTC Regulatory Agreement must include each of the following:

- Evidence that the tax credit investor limited partner has consented to the Income Averaging Set-Aside for the Property.
- Analysis of the regulations and/or Qualified Allocation Plan (QAP) implementing the Income Averaging Set-Aside by the tax credit allocating agency of the State in which the Property is located, and whether the Property will be in compliance with such regulations and/or QAP, as well as any guidance published by the Internal Revenue Service

The new requirements also include changes for the underwriting package:

- The Seller must submit documentation providing details of the investor's LIHTC compliance and monitoring strategy
- The rent roll must include an analysis confirming that rents on the Origination Date will meet the average AMI requirements

These changes can be found in Section 6.4(m), item 1 of Section 23.2(a), and in the entries for the LIHTC Compliance/Monitoring for Income Averaging documentation and the rent roll in Section 55.2. We are also revising the TAH underwriting checklists to include the new requirements.

Payment and Performance Bonds

We are updating our requirements for Preservation Rehabilitation Mortgages to include payment and performance bonds, which are required under either of the following circumstances:

- If the general contractor used to complete the construction work is unrelated to the Borrower
- If the general contractor is related to the Borrower and will use subcontractors for major elements of the rehabilitation

The payment and performance bonds must be on a form acceptable to Freddie Mac and must cover 100 percent of the amount of the applicable construction contract. The surety must be licensed through the State in which it operates and must have a rating of at least A-9 from A.M. Best or an equivalent rating from a comparable rating agency. The Seller/Service, together with its successors and assigns, must be named a dual obligee.

Payment and performance bonds may not be required if all construction monitoring requirements remain in place and any of the following conditions are met:

- The amount of the construction contract represents less than 15 percent of the UPB
- The LTV of the Mortgage is 65 percent or less
- Cash or a letter of credit in the amount of 15 percent of the total construction contract is provided and the letter of credit counterparty is acceptable to Freddie Mac

See Section 19.2(e), item 14, for these changes.

Appraisals for Preservation Rehabilitation Mortgages

Because new restricted rents for Preservation Rehabilitation Mortgages may now be in place at the beginning of the construction period, we are revising Section 60.28 to require an appraiser to provide a valuation scenario for the Property that considers the proposed restricted rents that will be in place subsequent to or concurrent with the origination of the Mortgage but prior to construction completion. The additional scenario need not assume that the renovations are completed; only that the restricted rents have been revised. The revised rents must be approved; a proposed rent structure is not acceptable.

Manufactured Housing Community Questionnaire is being retired

We are announcing that the Manufactured Housing Community Questionnaire is being retired. Questions that had been addressed on the Questionnaire are now addressed via the Legal Issues Analysis form, available on FreddieMac.com.

Sections 22.14 and 55.2 are being updated to reflect this change. We are also modifying Exhibit 1. Section 1.1 *Conventional and TAH Underwriting Checklist*, and the *Interactive Conventional and TAH Cash Underwriting Checklist* to remove references to the Questionnaire.

Reporting requirements for Value-Add Loans

We are modifying Section 40.16(b) to clarify that Servicers must report on renovation progress and rental condition at the Property via the Value-Add Reporting Loan Item Tracking (LIT).

A sample version of Form 1028, *Value-add Monitoring Form*, is now available on FreddieMac.com. The Form is to be used for informational purposes only.

Housekeeping Changes

Radon

Section 61.15 is being modified to clarify that testing is not required if an environmental consultant concludes that radon levels that exceed actionable levels are unlikely to be a risk to the Property.

Form 1105, Property Condition Assessment

We are posting an updated Form 1105, *Property Condition Assessment* to correct a technical compilation error. There are no substantive changes made to the content of the Form.