

Bulletin

NUMBER: M2014-2

TO: Freddie Mac Multifamily Sellers and Servicers

March 3, 2014

SUBJECTS

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

- Requiring the use of the new Loan Documents for Mortgages originated under the Multifamily Conventional Cash Purchase Program or the Targeted Affordable Housing Cash Mortgage Purchase Program and purchased pursuant to a Letter of Commitment or an early rate-lock application that expressly requires use of the March 1, 2014 Loan Documents
- Publishing two versions of Section 32.4 on the Multifamily Loan Documents page of FreddieMac.com to provide final delivery instructions both for Mortgages originated on Loan Documents with a revision date prior to March 1, 2014 and for those originated on Loan Documents with a revision date of March 1, 2014 or later
- Modifying Guide requirements to reflect the consolidation of the Loan Documents, including changes to requirements for representations and warranties, legal services, Property and Borrower fundamentals, letters of credit, mortgage purchase programs and products, and title and UCC searches
- Suspending the use of the interest rate swap option for variable rate bond credit enhancements
- Clarifying previously announced requirements for zoning reports
- Updating the Hazard Loss Notification and Plan – Form 1140 and the Hazard Loss Disbursement Request – Form 1140DR
- Making minor changes to our requirements for fraud reporting
- Updating references in Chapter 19, Originating a TAH Cash Mortgage

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. 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,

David Brickman
Senior Vice President
Multifamily

New Multifamily Loan Documents

With this Bulletin we are requiring use of a new set of consolidated loan documents which are based on the existing Capital Markets Execution (CME) form documents and which reflect a single cash execution path. The revised documents have a revision date of March 1, 2014 (the “March 1 Documents”) and must be used for each Mortgage originated under the Multifamily Conventional Cash Mortgage Purchase Program or the Targeted Affordable Housing Cash Mortgage Purchase Program and sold to Freddie Mac pursuant to a Letter of Commitment or an early rate-lock application that expressly requires use of the March 1, 2014 Loan Documents. In most cases, this Letter of Commitment or early rate-lock application will have been issued or submitted, as applicable, on or after March 3, 2014.

Guide Section 32.4 and Final Delivery Table of Contents on FreddieMac.com

We have also updated the Final Delivery Package instructions in Section 32.4 to reflect the consolidated Loan Documents. Effectively immediately, Section 32.4 as published on AllRegs will direct Seller/Servicers to use as delivery instructions one of the two versions of Section 32.4 published on FreddieMac.com, as described below:

- Guide Section 32.4 (Post-March 3, 2014), for a Mortgage originated using the March 1 Documents
- Guide Section 32.4 (Pre-March 3, 2014), for a Mortgage originated using pre-March 1 Documents

In addition, the Final Delivery Package Tables of Contents and related Multifamily DMS mapping documents, found on FreddieMac.com, have also been revised to reflect the changes made above.

Additional Guide Changes in Support of the March 1 Loan Documents

We are also revising our loan origination and purchase requirements in support of the new Loan Documents. Seller/Servicers and their counsel should review the revisions, giving particular attention to the following:

Representations and Warranties

Previously, Seller/Servicers were required to make the additional representations and warranties set forth in Exhibit 12, the Capital Markets Execution Representations and Warranties for CME Mortgages. Now, we are requiring Seller/Servicers to make these representations and warranties for all Mortgages sold to Freddie Mac under the Multifamily Conventional Cash Mortgage Purchase Program and the Targeted Affordable Housing Cash Mortgage Purchase Program, with the exception of Mortgages sold under the Multifamily Supplemental Mortgage Purchase Product. At this time we are retitling this document “Seller/Servicer Representations and Warranties”, removing it from the Guide and making it available on the Representations and Warranties page on FreddieMac.com. We have revised Section 5.15 and the Glossary to reflect these changes.

Additional Requirements for Seller/Servicer's Legal Counsel

We are revising Sections 6.4, 6.7, and 6.8 to apply the requirements previously applicable to CME Mortgages to all Mortgages.

Property Fundamentals

The following requirements pertaining to the Property apply to all Mortgages and may also apply to Special Servicing Requests when appropriate:

- We are aligning Sections 8.3(b) and 40.6(e) with respect to the requirement that the Servicer inspect a Property in accordance with the Increased Scrutiny for Moisture or Mold Issues requirements when there is no existing Moisture Management Plan for the Property.
- We are revising Section 8.6(e) to state that no cash execution Mortgages may be cross-collateralized and cross-defaulted with any other Mortgages in order to meet the additional Property requirements set forth in Section 8.6(e).
- We are revising Section 8.11 to eliminate the distinctions between types of cash execution Mortgages with respect to required commercial lease language allowing the lender or any purchaser to accept or terminate the lease after a foreclosure sale.

Borrower Fundamentals

We've made the following changes to Chapter 9, Borrower Fundamentals:

- We have revised Section 9.2 to list the types of Borrowers that are either generally acceptable or acceptable in limited circumstances and subject to additional requirements.
- We have revised Section 9.6 to state that a revocable or irrevocable trust may be an eligible Borrower only following review and approval by Freddie Mac.
- We have revised Section 9.7 to:
 - State that the Seller must review the organizational documents of any Borrower or SPE Equity Owner that is a Single Purpose Entity to ensure that they meet the requirements set forth in the Loan Documents
 - Remove the requirement that the Seller ensure that all Rating Agency requirements with respect to Single Purpose Entities are satisfied

Section 9.2 continues to list additional Borrower requirements based on the initial principal balance of the Mortgage and requirements applicable to Borrowers and SPE Equity Owners that are single member limited liability companies.

We have renamed the Form 1115 the "Borrower Certificate of Financial Condition – Form 1115" and have modified the form to conform to changes made in Section 9.2. The updated Form 1115 is available on AllRegs and on FreddieMac.com on the Guide forms page. We have also revised the Underwriting Checklists to reflect the new form name.

Letters of Credit, Reliance on Third-Party Reports

We've revised Section 11.2 to apply our letter of credit requirements to all Mortgages, and have revised Section 11.4 to apply our requirements relating to reliance on third-party reports to all Mortgages.

These changes can be found in Sections 11.2(a), 11.2(b), 11.2(j) and 11.4.

Mortgage Purchase Programs and Products

In Chapters 17 and 21, we've clarified the types of Mortgages that Freddie Mac will purchase under its conventional cash execution and Supplemental Mortgage programs. In Chapter 21, we have revised our documentation requirements to conform to the newly-consolidated Seniors Housing Loan Documents.

Title and UCC Search

We've made the following changes to Chapter 29:

- With respect to the required endorsements in Section 29.1(g):
 - ALTA Form 3.1-6, Zoning-Completed Structure Endorsement, is now required for all Mortgages with an initial principal balance of \$25 million or more, or if the Mortgage is part of a cross-collateralized and cross-defaulted pool of Mortgages of \$25 million or more when aggregated. The form is required for all Mortgages located in Arizona, California, Nevada, Oregon, Utah or Washington if we have waived the survey.
 - A usury endorsement is now required for all Mortgages with an initial principal balance of \$25 million or more, or if the Mortgage is part of a cross-collateralized and cross-defaulted pool of Mortgages of \$25 million or more when aggregated.
- Section 29.2(e) has been revised to state that for all Mortgages, the Seller may not rely on any safe harbor category if a title exception would result in an Exception to the Seller/Servicer Representations and Warranties.
- In Section 29.4(g), for each Borrower and SPE Equity Owner that has been formed within 90 days prior to the origination of the Mortgage, the Seller will not be required to provide a UCC search for the Borrower or the SPE Equity Owner.
- In Section 29.5(a), with respect to ALTA/ACSM requirements and survey waivers, the Letter of Commitment may waive a survey for a Property located in Arizona, California, Nevada, Oregon, Utah or Washington if the principal balance of the Mortgage is \$25 million or less and the zoning requirements and other waiver conditions in the Letter of Commitment are met.
- Section 29.5(c) has been revised to require that all Mortgages use the same Seller's Counsel's Certification form found on FreddieMac.com.

Miscellaneous Changes in Support of the March 1 Loan Documents

We've removed additional references to CME or Portfolio Mortgages throughout Chapters 1, 5, 6, 7, 8, 9, 11, 17, 20, 21, 29 and 55, plus the Glossary.

With respect to our requirements for Servicing, asset management, nonperforming Mortgages, and accounting and reporting requirements, Freddie Mac will make additional updates to reflect the March 1 Loan Documents in a future Guide Bulletin.

Changes to the Availability of Swap Credit Enhancements

Due to the popularity of interest rate caps in the current interest rate environment, we are temporarily suspending the availability of swap credit enhancements in variable bond credit enhancement transactions. Section 28.8(c) has been deleted and Sections 28.1(d), 28.12(k), 28.12(q) and 28.23 have been modified to reflect this temporary suspension of swap credit enhancements.

Clarification to Zoning Report Requirements

In response to Seller/Servicer feedback, we are clarifying the zoning report requirements announced in the December 10, 2013 Guide Bulletin. Section 8.5(b) has been revised to require that a clear and concise statement regarding the status of the following violations be included in the zoning report, as follows:

- With respect to a violation of zoning laws and ordinances and building codes, the Seller/Servicer must indicate whether or not the applicable municipality or other jurisdiction has on record notice of such violations.
- With respect to a violation of housing codes, fire and life safety or accessibility requirements, we require determinations regarding any violations that not fully addressed in the property condition report delivered pursuant to Chapter 14 of the Guide.

Hazard Loss Notification and Plan and Hazard Loss Disbursement Request – Forms 1140 and 1140DR

We are making minor updates to our Hazard Loss Notification and Plan – Form 1140 for greater consistency and ease of use. When submitting Part I of the Form, Servicers must now provide estimates of the loss amount and expected repair completion date and indicate whether or not the insurance coverage appears sufficient to cover the estimated loss.

On both the Forms 1140 and the 1140DR we have removed references to CME or non-CME loans. When necessary, we refer to loans intended for securitization or loans held for investment.

The updated Forms 1140 and 1140DR are available on AllRegs and on FreddieMac.com on the Guide forms page.

Fraud Reporting

We are updating our fraud reporting requirements in the Guide as follows:

- Seller/Servicers must now have written procedures for reporting fraud or possible fraud in connection with a Mortgage sold to or serviced for Freddie Mac.
- Seller/Servicers must report to Freddie Mac when they first know or suspect an incident of fraud in connection with a Mortgage sold to or serviced for Freddie Mac, rather than when they have a reasonable belief of such an incident.

These changes can be found in Section 7.2(a).

Updates to Chapter 19, Originating a TAH Cash Mortgage

We are updating Chapter 19 to remove references to the Delegated Underwriting for Targeted Affordable Housing Guide (TAH Guide) and to indicate where additional provisions of Chapter 17 now apply. These changes can be found in Sections 19.1(c), 19.1(d), 19.1(e), 19.3(a), 19.7, 19.11, 19.13 and 19.17. We are also clarifying that the provisions in Section 19.16(g) apply to Mortgages other than ARMs. These updates do not represent a change to our requirements for originating TAH Cash Mortgages.