



Bulletin

NUMBER: M2016-3

TO: Freddie Mac Multifamily Sellers and Servicers

April 29, 2016

SUBJECTS

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

- Introducing an option for an expedited review by Freddie Mac of construction documentation for a TAH Forward Commitment if the construction lender meets certain requirements
- Referring to the TAH Seller/Servicer's technical lead for Forward Commitments as the Chief Architect/Engineer, and specifying responsibilities for the Chief Architect/Engineer
- Adding "affiliate" to the requirements previously applicable if the Seller/Servicer or any employee, director or officer of the Seller/Servicer owns or intends to become the owner of a direct or indirect interest in the Property or the Borrower, or owns or expects to own a direct or indirect interest in the proposed transferee with respect to a Transfer of Ownership
- Requiring the Servicer to provide an Early Indication Letter to each of the existing Borrower and the proposed new Borrower sponsor concerning a requested Transfer of Ownership for a non-SBL Mortgage, updating the process for submitting related documents and notices to Freddie Mac, and streamlining the documentation required to be submitted in connection with a requested Transfer of Ownership
- Revising our requirements for the types of easements a Servicer is permitted to approve
- Revising the timing for submission of documentation for extension requests and incomplete and partially completed repairs
- Clarifying quarterly reporting requirements for Value-Add Mortgages
- Adding the EPA Energy Star Score to the underwriting checklists for non-SBL Mortgages, in support of the Green Rebate Offering
- Revising the underwriting requirements for Section 8 income and expense for TAH Mortgages
- Updating our survey requirements to reflect the fact that we are only requiring the delivery of surveys in electronic format
- Updating our requirements for UCC searches
- Making minor editorial changes to our Glossary definitions and Forms 1115 and 1116.

We are also revising Chapters 3, 9, 29, 36, 40, 41, 43, and 55 of the Small Balance Loan (SBL) Addendum.

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,

David Brickman
Executive Vice President
Multifamily

Expedited Review of Construction Documentation for TAH Forward Commitments

An expedited review process for construction documents is now available for TAH Forward Commitments where the construction lender meets the specified requirements. The type of review will determine when construction documentation must be submitted to Freddie Mac.

To be eligible for an expedited review, the construction lender for the Forward Commitment must have:

- A minimum of \$1 billion in deposits, for a regulated regional or national bank, or the equivalent for a life insurance company or its subsidiaries
- A senior unsecured debt rating of BBB or higher by at least two of the following rating agencies: Fitch Ratings, Standard & Poor's Ratings Services, or Moody's Investors Service

In an expedited review, the Seller/Servicer must submit as part of the full underwriting package only a property and site description and an analysis of the development team as summarized by the Seller/Servicer's technical lead, the Chief Architect/Engineer. Additionally, within 90 days after the date of a Forward Commitment for which the Seller/Servicer is utilizing an expedited review, the Seller/Servicer must provide the following documents to Freddie Mac via the Document Management System (DMS):

- The pre-construction analysis report
- Final plans and specifications (stamped and signed)
- Executed construction contract with all exhibits

The standard review process remains in place for Forward Commitments where the construction lender does not meet the specified requirements. For the standard review, the Seller/Servicer must submit as part of the underwriting package the property and site description and the summary analysis of the development team's qualifications described above plus the pre-construction analysis report and the supporting construction documentation.

All of these changes can be found in Guide Sections 19A.1(d), 19A.4, 28A.1(e), 28A.4, and 55.2, and the Forward Commitment Underwriting Checklists for TAH Cash and Bond Credit Enhancement Mortgages found in Sections 1.30, 1.31, 1.32 and 1.33 of Guide Exhibit 1.

Requirement for a Chief Architect/Engineer for TAH Seller/Servicers

In Section 3.13, we are now referring to the technical lead that the TAH Seller/Servicer is required to have on its staff for Forward Commitments as the Chief Architect/Engineer. Throughout Chapter 15, we are now referring to the A/E Consultant as the Architectural Consultant. The qualifications for the Chief Architect/Engineer and the Architectural Consultant have not changed.

The Chief Architect/Engineer is responsible for evaluating the construction reports and documentation, including:

- In the pre-construction phase, providing a property and site description and a summary analysis of the development team's qualifications
- During the construction phase, reviewing all material change orders
- Post-construction, providing a summary analysis indicating that the project has been completed, lien-free and in accordance with all applicable requirements, substantially in accordance with the plans and specifications reviewed at the issuance of the Forward Commitment

These changes can be found in Guide Sections 3.13, 15.4(a), 15.6(c), 15.7(c) and 15.8(c). The change from A/E Consultant to Architectural Consultant can be found throughout Chapter 15 and in Sections 2.18(c), 19A.12, 19A.14, 19A.15(b) and 28A.14(b).

We have also added the property and site description and the summary analysis of the development team's qualifications to the full underwriting checklists (Sections 1.30 and 1.32 of Exhibit 1 for Cash and Bond Credit Enhancement Mortgages, respectively), and the summary analysis indication that the project has been completed to the conversion underwriting checklists (Sections 1.31 and 1.33 of Exhibit 1 for Cash and Bond Credit Enhancement Mortgages).

Conflicts of Interest

For both SBL and non-SBL Mortgages, Freddie Mac is revising its requirements with respect to conflicts of interest. Previously Freddie Mac required that a Seller/Servicer must inform Freddie Mac if any of the Seller/Servicer's employees, directors, or officers

- Owns a direct or indirect interest in the Property or the Borrower, including a lien on the Property or security interest or preferred equity or participation interest in the Borrower
- Becomes or intends to become the owner of a direct or indirect interest in the Borrower or in the Property

We are now adding "affiliates" to the list of individuals whose interests the Seller/Servicer must disclose.

As previously required, if the Mortgage is being underwritten, the disclosure of the nature and extent of the interest must be submitted to Freddie Mac in writing at the time the Seller delivers the underwriting package. With respect to a Mortgage that has already been purchased, Freddie Mac may require that the Servicer repurchase a Mortgage or transfer Servicing of such Mortgage if Freddie Mac, in its sole discretion, determines that such ownership is likely to result in inadequate Servicing of the Mortgage.

With respect to a Transfer of Ownership requiring Freddie Mac consent, if the Servicer or any of its employees, directors, officers or affiliates owns or expects to own a direct or indirect interest in the proposed transferee, the Servicer must provide Freddie Mac a written statement that discloses the nature and extent of that interest within three Business Days after receiving the Borrower's request for approval of a Transfer of Ownership.

These changes can be found in Sections 9.2(a), 36.18(a), 36.18(b) and 41.4 of the Guide, and in Sections 9.2(a) and 41.4(c) of the SBL Addendum.

Transfers of Ownership

Transfers of Ownership Requiring Freddie Mac Approval

Freddie Mac is making a number of changes to the process for submitting a review package for transfers requiring Freddie Mac consent.

- It is no longer necessary to notify Freddie Mac of a request for a Transfer of Ownership via email; the entry of the applicable information into the Consent Request Tracker within two Business Days after the Servicer receives the request from the Borrower is sufficient.
- We are reorganizing and streamlining the list of items that must be submitted in the full review package for a Transfer of Ownership requiring Freddie Mac consent, found in Sections 41.4(a), (b) and (c) of Guide Chapter 41. We are reorganizing Section 41.4 of the SBL Addendum, so that for SBL Mortgages the list of items required for the full review package can be found in Sections 41.4(d) and (e) of the SBL Addendum.
- The full review package must be submitted to Freddie Mac at least 15 days prior to the proposed date of the Transfer of Ownership; previously, the complete review package was due to Freddie Mac at least 30 Business Days prior to the proposed date of the Transfer of Ownership.
- We are now requiring that the following items be delivered to Freddie Mac at least five Business Days prior to the date of the proposed Transfer of Ownership:
 - A draft property management agreement in essentially final form
 - The final proposed Borrower organizational chart

For non-SBL Mortgages, we are requiring Servicers to collect items listed in Section 41.4(a) from the Borrower and the Borrower Principals following receipt of the Borrower's notification of the pending Transfer of Ownership. The Servicer must review these items and use them as the basis for issuing to each of the current Borrower and the proposed new Borrower sponsor an Early Indication Letter within 10 days after receiving the listed items. The Early Indication Letters must state whether the Servicer will proceed with the approval request or the Servicer requires additional information before proceeding. The forms of the Early Indication Letters can be found under the Servicer Special Request Forms heading on the Multifamily Asset Management page of FreddieMac.com.

With respect to the approval of a Transfer of Ownership for an SBL Mortgage, when the Servicer submits any documentation that must be executed by Freddie Mac, it must include a statement from Single Counsel that the documents are acceptable for execution by Freddie Mac, unless the Servicer was required to submit the draft documents to Freddie Mac for prior review.

Additional Changes to the Requirements for Transfers of Ownership

We are making the following additional changes:

- To the list of documents that the Servicer must deliver within five Business Days after a pre-authorized Transfer of Ownership occurs, we are
 - Requiring the Freddie Mac Acknowledgement of Pre-Approved Transfer, acknowledged by the Servicer, to be delivered if not previously uploaded to DMS
 - For SBL Mortgages, removing the requirement to deliver an Assignment of Management Agreement.
- We are reorganizing the list of documents to be delivered to Freddie Mac following closing of a Transfer of Ownership, and are now requiring the Servicer to
 - For non-SBL Mortgages, attach a copy of the fully-executed property management agreement to the signed Assignment of Management Agreement and Subordination of Management Fees
 - For SBL Mortgages, deliver a copy of the fully-executed property management agreement.
- With respect to counsel fees, we are updating the example of legal expenses that the Servicer may require the Borrower to pay to include the cost of searches and filings.

- We are noting that the Servicer of an SBL Mortgage must collect the counsel fee for Single Counsel, and if specified in the approval letter, a nonrefundable fee to reimburse Freddie Mac for the fees, expenses and costs of Freddie Mac’s legal counsel.

We are also updating the instructions for the delivery of documents and notices to Freddie Mac, and clarifying the use of the term “transferee” in Chapter 41. Throughout Chapter 41, we are incorporating the changes made to limit the number of entities required to complete the Form 1115, Borrower and Borrower Principal Certificate, and the Form 1116, Real Estate Schedule, that were announced in the April 4 Guide Bulletin.

These changes can be found in

- Guide Sections 41.4, 41.1(a), 41.1(b), 41.1(c), 41.3(c), 41.4, 41.4(a), 41.4(b), 41.4(c), 41.4(d) and 41.6(g), and 41.9(b)
- SBL Addendum Sections 41.1, 41.1(a), 41.1(b), 41.1(c), 41.3(c), 41.3(d), 41.4(a), 41.4(b), 41.4(c), 41.4(d), 41.4(e), 41.4(f), 41.6(d), 41.6(g), and 41.9(b)

Revisions to Requirements for Servicer Approval of Easements

In Guide Section 43.10(a) and Section 43.11(a) of the SBL Addendum, we are specifying that Freddie Mac review and approval is required for an easement where the Borrower is requesting that Freddie Mac subordinate the lien of its Mortgage to the easement.

Timing of the Submission of Documentation for Extension Requests and Incomplete Repairs

For both SBL and non-SBL Mortgages, in Section 39.4(b)(1), we are requiring that the Servicer notify us of the partial completion of repairs at least 10 days prior to the applicable completion date of the repairs, by submitting the Borrower Certification – Partial Completion of Repairs form, available on FreddieMac.com, via the Property Reporting System (PRS).

If the Servicer determines that the repairs will not be completed by the applicable completion date and that an extension is not appropriate, then at least 10 days prior to the applicable completion date the Servicer must provide Freddie Mac with a detailed update of the status of the repairs, prospects for ultimate completion of the repairs, Borrower’s reason for not completing the repairs and the Servicer’s recommendation for resolving the matter.

Previously, Freddie Mac required these notifications and updates at least 15 days prior to the completion date.

Clarifications to Post-Purchase Reporting for Value-Add Mortgages

For non-SBL Mortgages, we are clarifying that Servicers must always submit the following documents for Value-Add Mortgages:

- Borrower Quarterly Certification, Value-Add Transaction (included in the original loan documentation), executed by the Borrower, plus all relevant attachments as defined in the certification
- Value-Add Monitoring Form

Servicers must use the current version of the Value-Add Monitoring Form, found under the Servicer Special Request Forms heading on the Multifamily Asset Management page of FreddieMac.com.

The Servicer must submit the Borrower Quarterly Certification and the Value-Add Monitoring Form to Freddie Mac based on the submission dates for the QIE and AIE statements described in Section 40.2(b), via the submission method identified in Section 40.2(a). If PRS does not permit the submission of the QIE or AIE, then the Servicer must upload the Borrower Quarterly Certification and the Value-Add Monitoring Form directly into DMS, designating the document type as “QIE—Attachment (other than rent roll)”.

This clarification can be found in Guide Section 40.15(b).

Addition to the Underwriting Checklists

For non-SBL Mortgages, in support of the Green Rebate Offering, we are adding the EPA Energy Star Score as an optional item on the underwriting checklists. These changes can be found in the underwriting checklists found in Sections 1.1, 1.26, 1.29, 1.31 and 1.33 of Exhibit 1. We have also revised Chapter 55 of the Guide.

Section 8 Income and Expense Requirements for TAH Mortgages

We are revising the requirements for underwriting the HAP Overhang component of a Section 8 Mortgage using the bifurcation option to require that the HAP Overhang component be structured so that it self-amortizes over the term of the Section 8 contract period or the term of the Freddie Mac Mortgage, whichever is less.

This change can be found in Section 23.3(c).

Updates to Survey and UCC Provisions

We are making the following updates to provisions for non-SBL Mortgages:

- In Section 29.4(b), removing a reference to provisions of Article 9 of the UCC previously in effect, and removing the requirement that UCC searches must include the State in which the Property is located and the State in which the Borrower has its principal place of business
- In Section 29.5(b), removing certain statements to reflect the fact that Freddie Mac accepts the electronic delivery of surveys.

In Section 29.4(b) of the SBL Addendum, we are removing the reference to provisions of Article 9 of the UCC previously in effect.

Housekeeping Updates

We are making a minor editorial changes to the definition of Borrower Principal in the Glossary to align with the Forms 1115 and 1116. The definition now clarifies that a collective equity interest in the Borrower equal to or exceeding 25 percent (“Equity Holder”) may be direct or indirect.

We are updating the Glossary and the Forms 1115 and 1116 to refer to the ultimate individuals or entities that indirectly own or control the Borrower as a “Final Level Owner” rather than a “Last Level Owner” to coordinate with our internal Credit Policy and recent training modules.

We are updating the Forms 1115 and 1116 to align with the Glossary definition of a First Level Owner by adding that any LIHTC syndicators and investors, and any Joint Ventures in which a preferred equity contribution is being made, are considered First Level Owners regardless of their position in the organizational structure.