



Bulletin

NUMBER: M2016-7

TO: Freddie Mac Multifamily Sellers and Servicers

October 14, 2016

SUBJECTS

With this Bulletin for the Multifamily Seller/Servicer Guide (Guide), Freddie Mac is making the following changes:

- Making a number of changes to our requirements for underwriting packages, including the introduction of a new interactive underwriting checklist tool
- Changing the timing of the collection of the application fee for cash Mortgages and SBL Mortgages
- Adding a definition of Conflicts of Interest to the Guide Glossary, and referring to this term in our requirements for Borrowers in connection with Mortgage originations and Transfers of Ownership, and in our underwriting checklists
- Requiring the Seller/Servicer, rather than the Borrower, to evaluate the Property for seismic risk factors
- Adding a timing requirement for site inspections in support of third party reports
- Converting provisions of the Condominium/Cooperative Conversion Restriction Analysis into Guide requirements, so that the Seller/Servicer now only has to identify non-compliant requirements in the preliminary legal issues memorandum (PLIM)
- Simplifying our requirements for Appraisals
- Clarifying our requirements for subordinate debt for TAH Mortgages
- With respect to SBL Mortgages, updating the Guide to include a comprehensive chart clarifying our public record search requirements for Borrowers, Borrower Principals, guarantors, Non-U.S. Equity Holders, and property sellers
- For SBL Mortgages, eliminating state level UCC searches
- For non-SBL Mortgages, revising and streamlining the Title Exception and Survey Analysis form
- Making additional revisions to our requirements for a Transfer of Ownership
- Revising our requirements for submitting a notification of a hazard loss, and revising Form 1140, Hazard Loss Notification
- For SBL Mortgages, revising the requirements for Priority Repairs, PR-90 Repairs, and Replacement Reserve Servicing
- Adding to the Guide our requirements for Servicing Mortgages requiring Special Purpose Reserves
- Revising our certification requirements for the rent roll submitted with the Annual Inspection Form (AIF)
- Revising our requirements for credit reports submitted for Freddie Mac approval of subordinate financing
- Removing the requirement for Borrowers to have an independent director/manager

Effective dates

All revisions announced by this Bulletin are effective immediately, except that the public record search requirements with respect to SBL Mortgages go into effect for any full underwriting packages submitted on or after November 1, 2016.

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

Changes to the Underwriting Checklists and Underwriting Packages

As noted in a recent Freddie Mac email, we are making a number of changes to our requirements for submitting underwriting packages to Freddie Mac. We describe these changes below.

In addition, we are pleased to announce the release of a new interactive underwriting checklist tool, available on FreddieMac.com.

Interactive Conventional and TAH Cash Underwriting Checklist

The new Interactive Conventional and TAH Cash Underwriting Checklist, available on FreddieMac.com, should be used by Sellers submitting conventional or TAH cash Mortgage underwriting packages to Freddie Mac.

The new checklist allows Sellers to select the transaction, delivery, and product type as well as other deal characteristics. The applicable underwriting checklist requirements will automatically populate. Sellers will also have the ability to indicate whether or not required documents have been uploaded with the underwriting package, or to provide comments on their status.

As Sellers transition to using the new interactive checklist for submission of their conventional and TAH cash Mortgage underwriting packages, Exhibit 1, Section 1.1 for conventional cash Mortgages and Section 1.26 for TAH cash Mortgages will remain available on AllRegs.

We are not changing the format of the underwriting checklists for SBL Mortgages, Bond Credit Enhancement Mortgages, and Forward Commitments.

Items Removed from the Underwriting Checklists

We have eliminated the requirement to include the following items in the underwriting package:

1. Maps and aerial photographs
2. Form 1117, Borrower Certification of Physical and Environmental Property Condition, and Form 1117SBL, SBL Borrower Certification of Physical and Environmental Property Condition
3. Form 1147, Certificate of No Change
4. Application fee for cash Mortgages and SBL Mortgages
5. Dun & Bradstreet reports for Mortgage originated under the Bond Credit Enhancement program

Additional Changes

Additional changes to our requirements for the underwriting package are as follows:

1. Requiring the delivery of credit reports only for Borrowers and Borrower Principals who are individuals
2. Requiring the Seller to deliver a Blanket Certification for property financial statements and rent rolls, instead of individual certifications for each financial statement and rent roll
3. Requiring the Seller to identify in the mortgage transaction narrative analysis any entities meeting the definition of a Pass-through Entity provided in the Guide Glossary
4. For all Supplemental Mortgages, requiring the delivery of property financial statements and Form 1116, Real Estate Schedule
5. Revising the definition of the payroll schedule

6. Eliminating Form 1147, Certificate of No Change and replacing it with a statement of no material change
7. Adding a Conflict of Interest statement, to be submitted when a Seller/Servicer determines that a Conflict of Interest exists

We have revised Sections 17.10, 17.19, 17.15, 19.7, 19.13, 19.17, 21.12 and 21.14 to refer to the new interactive underwriting checklist tool.

The underwriting checklist changes can be found in the applicable entries in Section 55.2 and in the following sections of Exhibit 1:

- Section 1.1: Conventional Underwriting Checklist
- Section 1.2: Small Balance Loan Checklist
- Section 1.26: TAH Cash Underwriting Checklist
- Section 1.29: TAH Bond Credit Enhancement Full Underwriting Checklist
- Section 1.30: TAH Cash Forward Commitment Full Underwriting Checklist
- Section 1.31: TAH Cash Conversion Underwriting Checklist
- Section 1.32: TAH Bond Credit Enhancement Forward Commitment Underwriting Checklist
- Section 1.33: TAH Bond Credit Enhancement Conversion Underwriting Checklist

Additional changes related to the application fee and Conflicts of Interest are described below. The change to the process for evaluating seismic risk factors as a result of the removal of the Form 1117 and the Form 1117SBL is also described below.

Application Fee

The application fee will no longer be submitted with the underwriting checklist for Conventional and TAH cash Mortgages, or one Business Day after submission of the underwriting package for SBL Mortgages. Instead, we are revising the Guide to indicate that the application fee for these Mortgages will be deemed earned by Freddie Mac upon delivery of the full underwriting package and will be collected at rate-lock. The following cash products are affected:

- Conventional Mortgages, including Manufactured Housing Community (MHC) Mortgages
- SBL Mortgages
- TAH Mortgages
- TAH Forward Commitment Mortgages
- Supplemental Mortgages
- Seniors Housing Mortgages

For SBL Mortgages, we have also revised the Guide to state that for early rate-lock applications, the application fee will be deemed earned by Freddie Mac upon Coupon Rate Lock.

These changes can be found in Sections 17.10, 17.11(a), 17.11(c), 17.11(e), 17.18(f), 18SBL.5, 18SBL.6(a), 18SBL.6(c), 18SBL.6(e), 18SBL.11, 18SBL.12, 19.7, 19.8(a), 19.8(c), 19.8(e), 19.16(f), 19A.7, 19A.8(a), 19A.8(c), 19A.8(e), 20.6, and 21.9.

Conflicts of Interest

In the Guide Glossary, we are defining a Conflict of Interest as the direct or indirect ownership by a Seller/Servicer or any of its employees, directors, officers or affiliates of an interest in the Property, the Borrower, or any non-member manager of the Borrower, including a lien on the Property or a security interest or preferred equity or participation interest in the Borrower or any non-member manager of the Borrower. Freddie Mac does not permit a Seller/Servicer or any of its employees, directors, officers or affiliates to hold, directly or indirectly, preferred equity or a participation interest in the Borrower or any non-member manager of the Borrower, if such interest includes the ability to assume control of and/or manage the Borrower or the Property.

We are requiring the Seller/Servicer to notify Freddie Mac of any Conflict of Interest when

- The Seller/Servicer delivers to Freddie Mac the preliminary underwriting package when utilizing the early rate-lock delivery option, or the full underwriting package when utilizing the standard delivery option
- A Conflict of Interest arises following delivery of an underwriting package to Freddie Mac
- A Transfer of Ownership requires Freddie Mac consent
- The Seller/Servicer plans to enter into any transaction that would result in a Conflict of Interest

See the Guide Glossary and Sections 9.2(a), 9SBL.2, 36.18(a), 36.18(b), 41.4, and 41SBL.4(c). We have also updated the underwriting checklists to require the delivery of a Conflict of Interest statement, if applicable.

Evaluation of Seismic Risk Factors by the Seller/Servicer

As a result of the elimination of Form 1117, Borrower Certification of Physical and Environmental Property Condition, and Form 1117SBL, SBL Borrower Certification of Physical and Environmental Property Condition, we are now requiring the Seller/Servicer, instead of the Borrower, to evaluate the Property for the seismic risk factors, which are found in Section 16SBL.2(c) for SBL Mortgages, and in Section 16.2(c) for all other Mortgages.

We have revised Sections 2.14(j), 16.1, 16.2(b), 16.2(c), 16SBL.1, 16SBL.2(b), and 16SBL.2(c) in support of this change.

Timing of Inspections Supporting Third Party Reports

At initial submission of the full underwriting package to Freddie Mac, we are now requiring the property inspection in support of a third party report, including any supporting database searches, to be completed within 30 days prior to the date of the third party report. Property inspections in support of the following third party reports are affected by this new requirement:

- Environmental report for Conventional and TAH Mortgages
- Property condition report for Conventional and TAH Mortgages
- Physical Risk Report, for SBL Mortgages
- Pre-construction analysis report, for a Forward Commitment
- Post-construction analysis report, for a Forward Commitment
- Level 1 Seismic Risk Analysis (SRA), for all Mortgages

These changes can be found in Sections 13.2(b), 14.3(c), 14SBL.3(f), 15.4(b), 16.5, and 16SBL.5.

Condominium/Cooperative Conversion Restrictions or Indemnification

We are eliminating the requirement to complete the Condominium/Conversion Restriction Analysis form for all Condominiums. Instead, we are providing the conditions that the agreement/restriction must meet if there is a prohibition against the conversion of the Property to a condominium or cooperative structure, or any indemnification by an owner of the Property relating to the conversion of the Property to a condominium or cooperative structure. If the underlying agreement or restriction fails to fully satisfy Freddie Mac's conditions and will not be modified prior to the Origination Date of the Mortgage, the Seller or its counsel must provide a legal analysis in the PLIM as to why Freddie Mac should accept the agreement/restriction without it being fully compliant with our requirements.

We have removed the existing requirement to complete the Condominium/Conversion Restriction Analysis form and replaced it with a requirement to analyze the agreement/restriction. The Seller or its counsel must confirm in the title analysis that all such requirements have been satisfied or that any non-compliant provisions have been approved by Freddie Mac.

In support of these changes, we have added Section 8.17(f) and revised Section 29.2(g).

Appraisals

We're making the following changes to our requirements for Appraisals:

- Reducing the number of appraisers required to sign and co-sign an Appraisal
- Gaining efficiencies by targeting specific types of units for inspection which will reduce the amount of time an appraiser must spend on property inspections
- Requiring the submission of a property condition report, environmental assessment, or Physical Risk Assessment for SBL Mortgages to the appraiser only when there are material issues raised by the third party consultant; if the Seller/Servicer and Freddie Mac do not agree if an issue is material, Freddie Mac will make the final decision of materiality on a case-by-case basis
- Requiring the appraiser to provide Freddie Mac underwriting with a reasonable minimum number of comparables, and placing greater emphasis on how the appraiser must identify the primary data source(s) used to verify comparable sales data
- Requiring the Seller/Servicer to provide the appraiser with accurate identification of the Property prior to report submission to reduce non-valuation resubmissions during Securitization reviews or the underwriting process

These changes will lead to improved transparency of the appraiser's discussion, assumptions and conclusions, and they can be found in Section 12.5(b), 12.6, 12.12(b), 12.12(f), 12.13, and 12.14(b).

Subordinate Debt Change for TAH Mortgages

We are revising Section 19.3(f) to clarify that all subordinate lenders (hard subordinate debt or soft subordinate debt) must execute the Freddie Mac form of subordination agreement appropriate to the nature of the entity providing the subordinate debt. We are also removing duplicative requirements previously contained in this Section.

Public Record and UCC Searches for SBL Mortgages

Public Record Searches

In response to customer feedback, and to be consistent with prudent lender practices, we are clarifying the public record searches that SBL Sellers must conduct for the following entities:

- Borrowers
- Guarantors
- Borrower Principals other than guarantors
- Non-U.S. Equity Holders
- Property sellers

In addition to the searches that Freddie Mac requires in Sections 2.18 (Exclusionary List), Section 2.23 (OFAC), Section 2.24 (FHFA SCP), and Section 55.2 (credit reports), we are also requiring the following public record searches for the entities listed above:

- Web search
- Bankruptcy
- Tax lien (Federal, State)
- Criminal – individual
- Litigation, pending and judgements (Federal, County/State)

The Seller/Servicer must conduct these public record searches no earlier than 60 days prior to the submission of the full underwriting package, for any full underwriting package submitted on or after November 1, 2016. Searches on entities formed within 90 days of the loan closing are not required; searches of the Property seller are only required for acquisition loans.

Please note that Freddie Mac's current requirements for the Exclusionary List, the OFAC Specially Designated Nationals and Blocked Persons ("SDN") List, the OFAC Consolidated Sanctions List, and the FHFA SCP list are not changing, and the Seller/Servicer must continue conducting these searches as currently required.

If any public record search discloses adverse circumstances that were known by the Seller/Servicer or the Borrower, were not disclosed in writing to Freddie Mac prior to the interest rate-lock date and are unacceptable to Freddie Mac, Freddie Mac considers this disclosure to be a reason for rejecting the early rate-lock application.

Having no unmitigated adverse findings from these public record searches is also a condition for Freddie Mac consent to a Transfer of Ownership requiring Freddie Mac consent.

Section 18SBL.30 contains a comprehensive chart summarizing the public record search requirements, as well as additional details on the litigation searches required for Borrowers that are individuals, Borrowers that are entities, and guarantors that are individuals. We have also revised Sections 18SBL.19(e) and 41SBL.4(a), and have added Section 9SBL.13, in support of these search requirements.

UCC Searches

We are eliminating the requirement that an SBL Seller/Servicer or Single Counsel must perform a state level UCC search of the Borrower's name or, if the Property is being acquired, the name of the current owner of the Property. Instead, Section 29SBL.4 now requires Seller to cause a UCC search to be performed in the Property's local jurisdiction for the Borrower, if the loan is a refinance, or if the Property is being acquired by the Borrower, the current owner of the Property. This search must be completed no earlier than 30 days prior to the Origination Date.

We have revised Section 41SBL.4(e) to remove the requirement for the Servicer to provide a UCC financing statement search for a proposed new Borrower, and Section 41SBL.6(g) to remove the requirement that the Servicer's Counsel or Single Counsel must examine the UCC search.

Title Forms and Title Exception and Survey Analysis for Non-SBL Mortgages

We are updating Section 29.1(g) to remove certain ALTA forms from the list of endorsements that must be attached to the title insurance policy. We have also streamlined the Title Exception and Survey Analysis form and have revised instructions for completion of the form in Sections 29.2(b)-(e). The revised Title Exception and Survey Analysis form will be updated on FreddieMac.com in conjunction with this Guide Bulletin.

Additional Changes for Transfers of Ownership

In addition to the Conflict of Interest changes, we are making the following additional changes applicable to Transfers of Ownership:

- Current credit reports are only required for any proposed new Borrower or Borrower Principal that is an individual.
- For non-SBL Mortgages only, we are adding a requirement that following the closing of a Transfer of Ownership in the Property, the Servicer must promptly record UCC termination statements evidencing the release of Freddie Mac's security interest in the fixtures and personal property of the transferor located on or related to the Property. The termination statements must be filed, at the Servicer's expense, in each office in which a UCC financing statement has been filed or recorded.
- For SBL Mortgages, we have deleted the requirement to deliver a signed Borrower's Certification of Representations and Warranties to Freddie Mac following closing of a Transfer of Ownership.

These changes are found in Section 41.4(b), 41.6(h), 41SBL.4(d), and 41SBL.6(g).

Notification of a Hazard Loss

To make it easier for Servicers to comply with our requirements, we are revising our requirements for the completion of Form 1140, Hazard Loss Notification, as well as revising the form itself.

- The Servicer must submit Form 1140, Part I to Freddie Mac via DMS no more than seven calendar days after the Servicer learns that loss or damage has occurred.
- If the Servicer was unable to include all of the requested information when it initially submitted Part I, the Servicer must provide additional information in the Property Reporting System (PRS) within 90 days after the Servicer initially submitted Part I.

- The Servicer must submit Form 1140, Part II only if Freddie Mac must approve the Borrower's restoration plans based on certain criteria (for example, the Mortgage's Risk Rating and the extent of the Property's damage).

If the Servicer is required to submit Part II, it must be submitted to Freddie Mac within 90 calendar days after the Servicer initially submitted Part I. If delegation of disbursement requests is not approved, the Servicer must submit Form 1140-DR.

Complete information on these changes and instructions for delivery of the forms is found in Section 43.8(a). We are also revising Form 1140, Hazard Loss Notification, available on both FreddieMac.com and AllRegs.

Priority Repairs for SBL Mortgages

We are revising our requirements for the identification and monitoring of Priority Repairs.

At Origination and Underwriting

Form 1104, Physical Risk Report, must identify the repairs defined in Section 14.SBL.3(b) as Priority Repairs or PR-90 Repairs, and the following repairs:

- Converting to municipal water
- Inadequate power supply
- Replacement of FRT plywood
- Clean-up and remediation of moisture and Mold issues
- Repair of any damage caused by wood-damaging insects
- Removal of asbestos-containing materials (ACM)

The Loan Documents will specify the Borrower's obligations with respect to Priority Repairs, and the Seller/Servicer must provide a copy of the Physical Risk Report to the Borrower so that the Borrower is aware of its obligation to complete identified Priority Repairs and Operational Repairs as specified in the Loan Documents. Freddie Mac will require a Reserve for all identified Priority Repairs (including PR-90 Repairs) if certain conditions are present.

These changes can be found in Sections 8SBL.2(a), 8SBL.16, 13.10(d), 14SBL.2, 14SBL.3(b), 14SBL.5(c), 14SBL.5(d), 14SBL.5(e), 14SBL.6(d), 14SBL.18, and 18SBL.2.

Servicing Priority Repairs for SBL Mortgages

The Annual Inspection Form (AIF) must be used to report on loans that have not been securitized; after Securitization, the MBA Inspection Form must be used. When conducting the property inspection in support of the AIF or the MBA Inspection Form for SBL Mortgages, the consultant must photograph all Priority Repairs (including PR-90 Repairs) identified on the Form 1104, Physical Risk Report.

The Servicer must confirm at the first annual inspection whether the items identified as Priority Repairs (including PR-90 Repairs) have been completed, and note any incomplete Priority Repairs.

For an SBL Mortgage with a Loan Agreement with a revision date after 11-02-15, the Servicer must:

- Identify whether the Priority Repairs have been completed
- Notify the Borrower of the outstanding Priority Repair and its obligation under the Loan Agreement to complete the identified repairs
- If the outstanding repair is a Life Safety Hazard, work with the Borrower until the Life Safety Hazard is remediated or resolved
- For all other outstanding Priority Repair items, follow up at the next scheduled inspection
- Retain a qualified engineer to certify that the repairs have been completed in a satisfactory manner, if the repair meets certain conditions
- Monitoring the disbursement from the Replacement Reserve Fund, if any, including reviewing estimates for reasonableness, authorizing disbursements and documenting that all repairs are completed in a satisfactory manner

To accommodate these changes, we have revised Sections 39.3(a), 39.4, 40.6(b), 40.6(d), and 40.6(e) and have added Section 39.5, 39.5(a), 39.5(c), and 39.5(e). Sections previously numbered as 39.5 and 39.6 have been renumbered as 39.6 and 39.7.

Servicing of Special Purpose Reserves

We are adding to the Guide provisions for Servicing a Special Purpose Reserve when such a reserve is required by the Loan Agreement. Section 39.8 includes requirements for the Servicer with respect to

- Monitoring the performance of the Property under the terms of the of the Loan Agreement relative to the Special Purpose Reserve
- Responding to Borrower requests for the release or reduction of Reserve funds
- Responding to Borrower requests to extend the termination date for the Special Purpose Reserve
- Notifications due to Freddie Mac
- Prohibited actions by the Servicer

See Sections 39.8 and 39.8(a)-(e) for complete requirements. We have also revised Sections 39.3(b) and (c) to refer to Special Purpose Reserves.

Certification of Rent Rolls Submitted with the AIF

We are revising our requirements so that the rent roll submitted with the AIF may be certified by the Borrower or an individual or entity authorized by the Borrower. The Servicer must obtain and retain in the Mortgage File a copy of the Borrower's authorization. This change can be found in Section 40.8.

Credit Reports for Freddie Mac Approval of Subordinate Financing

We have revised Section 43.29(b) to require a credit report for any Borrower or Borrower Principal that is an individual.

Independent Director/Manager

We are removing from Section 9.2 the requirement to have an Independent Director/Manager, since this requirement no longer applies.