

Bulletin

NUMBER: M2013-7

TO: Freddie Mac Multifamily Sellers and Servicers

December 10, 2013

SUBJECTS

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

- Providing an option for Servicers to have Freddie Mac consider the results from a Seller/Servicer's Regulation AB audit (if applicable) when Freddie Mac conducts its own audit
- Establishing new requirements for the Seller/Servicer's Business Continuity Plan
- Revising our requirements for the full underwriting package submission of a wood-damaging insect report or a certification from the Property's pest control provider
- Revising our requirements for testing for polychlorinated biphenyls (PCBs) and radon
- Requiring Seller's counsel to complete the Regulatory Agreement Analysis form under certain circumstances
- Revising our requirements for the Property's zoning reports with respect to Certificates of Occupancy
- Changing the maximum easement review fee from \$2000 to \$3000
- Establishing new requirements for the adjustment of Replacement Reserves for a Mortgage with a term greater than 10 years
- Clarifying when a rent roll is considered to be current for the purposes of the Annual Income and Expense Assessment (AIE), the Quarterly Income and Expense Assessment (QIE) and the Annual Inspection Form (AIF)
- Eliminating the requirement for a Servicer brief in connection with Transfers of Ownership and adding documents to the complete review package submitted to Freddie Mac after a request for a Transfer of Ownership
- Revising the definition of Down Units for the purposes of a property inspection
- Making minor changes and clarifications to our requirements for Replacement Reserve Servicing
- Making the following additional changes to forms
 - Updating the Report of IRS Form 1099-A and 1099-C Filings, Form 1065M
 - Updating the Multifamily Environmental Assessment Form, Form 1103
 - Updating the Multifamily Annual Production Summary, Form 1141
 - Deleting from the Guide two forms that are no longer in use (Forms 1132 and 1142)

Effective dates

All of the changes announced by this Bulletin are effective immediately; however, March 1, 2014 is the deadline for Seller/Servicers to have implemented a Business Continuity Plan in compliance with the new Guide requirements.

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

Freddie Mac Audits

Many Program Plus and TAH Servicers service Asset-Backed Securities (ABS) and are subject to Regulation AB audits. To reduce the effort required for these Servicers to prepare for a Freddie Mac audit, we are providing an option to have Freddie Mac consider the results from the Servicer's Regulation AB audit when Freddie Mac conducts its own audit. To take advantage of this option

- Freddie Mac Mortgages must be included in the Servicer's defined Regulation AB platform
- The Servicer must submit copies of the following as part of Freddie Mac's annual certification process:
 - The Servicer's annual Regulation AB assertion
 - The attestation report prepared by the independent public auditor on assessment of compliance with the Regulation AB servicing criteria

These changes go into effect in 2014 for Servicers who submit the required documents for the 2013 annual Freddie Mac certification and are able to include Freddie Mac loans in the 2013 loan population sampled for the Servicer's 2014 Regulation AB audit. For any Servicers who do not meet these requirements, or do not service ABS, Freddie Mac's audit requirements remain unchanged.

We have revised Sections 2.7 and 3.5(a) to reflect these changes.

Business Continuity Plan

Effective March 1, 2014, we are requiring Seller/Servicers to have in place a business continuity and disaster recovery plan (Business Continuity Plan) that provides for the assured and continuous delivery of core operations in the event of a disaster or business interruption. Seller/Servicers are required to test their Business Continuity Plan annually and retain evidence of the test results.

We have added Section 2.20 to the Guide to provide complete details regarding the content of the Business Continuity Plan; we have also revised Section 34.2 to reflect the new requirements.

Wood-damaging Insect Report

As part of the full underwriting package, the Seller/Servicer must now submit one of the following for any building with a structure or significant components that could be subject to damage by wood-damaging insects:

- A wood-damaging insect inspection report stating that there is no evidence of wood-damaging insect infestation, or
- Certification from the Property's pest control provider stating that there is no evidence of wood-damaging insect infestation and that the Property is regularly inspected and/or treated

The report must be dated within six months prior to the date of submission of the full underwriting package to Freddie Mac. Previously, this documentation was required only when the property condition consultant's observations were not included within the property condition report.

We will also require a Repair Reserve for any areas damaged by wood-damaging insects.

We have added Section 8.2(e) and have revised Sections 14.5(e) and 55.2 to reflect these revisions. We have also revised the underwriting checklists in Exhibit 1 to include the certification from the Property's pest control provider and to reference Section 8.2(e).

Testing for PCBs and Radon

We are making the following changes to our requirements with respect to PCBs and radon:

- If a utility owns the electrical transformers and capacitors, the environmental consultant can obtain confirmation of ownership via a written statement or a documented phone call.
- For utility-owned equipment for which the PCB content is unknown or confirmed to be in excess of 50 PPM, the environmental consultant is required to recommend an O&M program which takes into account the ownership of the equipment.
- When testing the Property for radon, the environmental consultant is now permitted the option of providing oversight of testing performed by others. The environmental consultant must review all test results and render an opinion; if the test results reveal elevated radon levels, the environmental consultant must provide resolution.
- If any of the initial tests indicate radon concentrations greater than or equal to 4 pCi/L, then the environmental consultant must recommend additional long-term testing commensurate with the risk identified by the short-term results.

The PCB changes can be found in Sections 13.11(b) and (c) and the radon changes can be found in Sections 13.15(a), (b) and (c).

Regulatory Agreement Analysis

Seller's counsel must now complete a Regulatory Agreement Analysis form if the Property is subject to any agreement that limits the amount of rent that may be charged or restricts the occupancy of any of the units at the Property (for example, to seniors or low-income tenants). Seller's counsel must update the Regulatory Agreement Analysis form if more information becomes available after the preliminary legal issues memorandum (PLIM) is completed.

Section 6.4(k) has been added to reflect this requirement.

Zoning Report

We are revising our requirements for the Property's zoning report. For a zoning report to be satisfactory to Freddie Mac, it must now include a clear determination as to whether all Certificates of Occupancy required for the use, operation and occupancy of the Property have been issued and whether there exist any violations of any federal, State or local law, ordinance or code relating to zoning, subdivision and use, building and housing accessibility, health matters or fire safety. If all Certificates of Occupancy are not available for a Property, the zoning report must state that this absence is not a zoning violation and will not give rise to any zoning enforcement action affecting the Property. If such a statement cannot be included, the zoning report must include an explanation of why the statement is not applicable, based on the facts and circumstances related to the Property or the requirements of the applicable jurisdiction.

See Sections 8.5(a) and 8.5(e) for complete details, including the precise wording of the statement to appear on the zoning report. We have also revised Section 55.2 to reflect these changes.

Easement Review Fee

We are increasing to \$3000 the nonrefundable review fee for:

- An application for an easement that does not require Freddie Mac approval
- An application for an easement that does require Freddie Mac approval

Sections 43.10(b) and 43.10(e) have been revised to reflect this change.

Replacement Reserves for a Mortgage with a Term Greater than 10 Years

We are including requirements in the Guide for a Mortgage with a loan term greater than 10 years where the Replacement Reserve requirements in the Loan Documents provide that the lender may adjust the Reserve amount based on an updated property condition report. If the Loan Documents provide for such an adjustment, then on the 10th anniversary of the Origination Date of the Mortgage, the Servicer must conduct a re-evaluation of the adequacy of the Replacement Reserve, as follows:

- Obtain an updated property condition report conducted in accordance with the requirements of Chapter 14
- Within 15 days following receipt of the updated property condition report, electronically submit a recommendation to Freddie Mac regarding the need for adjustments to the Replacement Reserve amount, using the General Special Servicing Request Form
- Deduct from the Replacement Reserve Fund an amount sufficient to pay the fees and expenses charged by the property condition consultant, unless the Loan Documents provide otherwise

We have added Section 39.5(f) and have revised Section 14.6(d) to reflect these changes. Form 1105, Multifamily Property Condition Form, has also been revised to take these changes into account, as well as to revise field and heading names and simplify instructions.

Clarification of Rent Roll Requirements for Postpurchase Reporting

For the purposes of postpurchase reporting, we are clarifying that a rent roll is considered to be current if it is dated no more than:

- Six months prior to the original due date for the Annual Income and Expense Assessment (AIE)
- Three months prior to the original due date for the Quarterly Income and Expense Assessment (QIE)
- One month prior to the Property's inspection date for the Annual Inspection Form

Sections 40.3(c), 40.4(c) and 40.8 have been revised to include this clarification.

Transfers of Ownership

Pre-authorized Transfers of Ownership

We are removing the requirement that a Servicer complete a Multifamily Related Party Transfer Form if a Servicer receives notice of a pre-authorized Transfer of Ownership prior to the date of the transfer. Section 41.3(a)(2) has been modified to reflect this change.

Transfers of Ownership that Require Freddie Mac Consent

We are modifying our requirements regarding Transfers of Ownership that require Freddie Mac consent. Section 41.4(a) has been modified to require that the following additional information be included in the complete review package that is to be electronically submitted at least 30 Business Days prior to the proposed date of the Transfer of Ownership:

- Current financial statements for the Property must include a trailing 12-month statement and statements for the most recent two calendar years, certified by the Borrower
- Annual Income and Expense Assessments (AIEs) for the two most recently ended calendar years
- The Servicer's financial analysis of the Property's performance for the most recent trailing 12 months
- The proposed new Borrower's Year 1 budget for the Property if title to the Property is transferring
- A Servicer's Proforma if the current UPB-to-sale price ratio is greater than or equal to 80 percent
- Current Borrower organizational chart
- Proposed Borrower organizational chart
- Copies of all current property reports obtained in connection with the Transfer whether requested by Freddie Mac or not

Revising the Definition of Down Units for the Purposes of a Property Inspection

We are adding the definition of Down Units to the Glossary. For the purposes of a property inspection, Down Units are defined as residential units that cannot be made rent-ready with routine maintenance and repairs. We have revised Sections 8.15(b), 14.5(b) and 40.6 to reflect the new definition.

Replacement Reserve Servicing

We are making the following changes to the provisions for Funded Replacement Reserves. With respect to the conditions that must be met for a Servicer to authorize a disbursement, we have removed the reference to Exhibit B of the Replacement Reserve Agreement and have reworded the requirement for credit enhancements. These changes can be found in Section 39.5(b).

We have also revised Section 39.3(a)(2) and Section 39.5 to reorganize and clarify existing provisions.

Additional Updates to Forms

We are updating all forms included in this Guide Bulletin with the new Freddie Mac Multifamily logo. In addition, we are making the following forms changes.

Multifamily Environmental Assessment, Form 1103

We are making the following updates to the Multifamily Environmental Assessment:

- Adding new fields to the Mortgage, Consultant and Property Information section
- Reorganizing the table and adding Cost and Cost to Mitigate columns to the Environmental Report Results section
- Grouping the radon results section with the asbestos and lead paint sections
- Adding a place for consultants to list the units they inspected

Annual Production Summary, Form 1141

We are updating the Annual Production Summary, Form 1141 to reflect the current reporting dates. For reports due to Freddie Mac via email on or before January 31, 2014, Seller/Serviceicers must ensure that they use the updated form. Guide Section 3.7 has been modified to reflect this change.

Report of IRS Form 1099-A and 1099-C Filings, Form 1065M

We are updating Form 1065M to reflect our requirement for a Servicer to submit a hardcopy of Form 1065M to Freddie Mac once the Servicer has electronically submitted IRS Forms 1099-A or 1099-C directly to the IRS. We have also made non-substantive editorial changes to the form.

Removal of Forms No Longer in Use

We are removing the following forms from the Guide since they are no longer in use:

- Authorization for Automatic Transfer of Funds Through the Automated Clearing House (ACH), Form 1132
- Seniors Housing Supplement to Assessment, Form 1142