



# Bulletin

**NUMBER: M2015-5**

**TO:** Freddie Mac Multifamily Sellers and Servicers

December 16, 2015

## **SUBJECTS**

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

- Adding Targeted Affordable Housing (TAH) requirements to the Guide, including:
  - A new chapter to the Guide covering Regulatory Agreements and Properties benefiting from Section 8 or Section 236 subsidies
  - Requirements for Preservation Rehabilitation, Properties benefiting from Low-Income Housing Tax Credits (LIHTC), and tax-exempt bond financing
- Updating the Guide to address Seller/Service concerns about screening provisions added to the Guide in the September 25 Guide Bulletin, as follows:
  - Revising our provisions for screening property management companies against the Freddie Mac Exclusionary List, the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons (SDN) List, the OFAC Consolidated Sanctions List, and the Federal Housing Finance Agency (FHFA) Suspended Counterparty Program (SCP) List
  - Updating Form 1115, Borrower and Borrower Principal Certificate by revising the definition of a Borrower Principal and adding a definition for Non-U.S. Equity Holder to clarify that Non-U.S. Equity Holders are subject only to the OFAC screening requirements of the Form
- Updating our requirements for determining whether a Property is located in an Elevated Seismic Hazard Region and requiring Seller/Service to order Level 0 Seismic Risk Assessments (SRAs)
- Revising the forms used for annual certification: Form 16M, Multifamily Annual Certification Report; Form 17M, Multifamily Annual Certification Report for Structured Transactions & Tax-Exempt Bond Seller/Service; and Form 1110M, Multifamily Annual Certification Report – Service Only
- Updating our requirements for loan accounting to include instructions for Freddie Mac's automated cash remittance system, which includes a web-based remittance option
- Updating the minimum rating requirements for eligible depository institutions, and requiring banks providing lockbox services to be eligible depositories
- Noting that Freddie Mac will purchase Moderate Rehabilitation Mortgages
- Making other administrative updates, including:
  - An update to our requirements for the assessment of polychlorinated biphenyls (PCBs) to include a definition for PCB contamination
  - The introduction of a new form for adding or changing system administrators
  - An update to our language regarding Freddie Mac audits to remove references to Regulation AB audits
  - An update to the requirements for UCC searches for Seniors Housing Mortgages to refer to the Final Delivery Instructions on FreddieMac.com
  - An update to the Directory for Customer Compliance Management

- Updating the following additional Guide forms:
  - Form 1103, Environmental Site Assessment
  - Form 1105, Property Condition Assessment
  - Form 1116, Real Estate Schedule
  - Form 1117, Borrower Certification of Physical and Environmental Condition

We are also revising Chapters 3, 8, 9, 13, 16, 41, 43, 50, 53 and 55 of the Small Balance Loan (SBL) Addendum to reflect these changes. We are updating Form 1117-SBL, Borrower Certification of Physical and Environmental Condition – SBL, and introducing Form 1115-SBL, Borrower and Borrower Principal Certificate– SBL.

### 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, with the exception of Chapter 23. Since Chapter 23 is new, we are displaying its text in black on AllRegs. If you have any questions about this Bulletin, please call your Freddie Mac representative.

Sincerely,

David Brickman  
Executive Vice President  
Multifamily

## Targeted Affordable Housing Provisions in the Guide

With this Guide Bulletin, we are achieving our goal of including all applicable TAH topics previously addressed in the Delegated Underwriting for Targeted Affordable Housing Guide (TAH Guide) in the Multifamily Seller/Servicer Guide. On October 1 we distributed the new Chapter 23 and revised Chapters 19 and 28 to TAH Seller/Servicers for review and comment. After updating the chapters to address their comments, we're including these chapters in this Guide Bulletin. We have also updated the Glossary to include definitions for various TAH terms. The provisions in the new and revised chapters reflect our current underwriting practices, and we recommend that TAH Seller/Servicers read them to understand our requirements in detail.

The TAH Guide and the related Bulletins and Letters will be removed from AllRegs on January 29, 2016.

### *Chapter 23, TAH Underwriting Analysis for Affordability Components*

Sections 23.2(a) through (d) include general requirements for Regulatory Agreements, a term used in the Guide to refer to land use restriction agreements (LURAs), declarations of restrictive covenants, extended use agreements and a variety of other agreements dependent upon the custom of the governmental entity imposing the restrictions. It addresses such topics as income restrictions and rent restrictions. The Seller's counsel must provide Freddie Mac with a Regulatory Agreement Analysis, found on FreddieMac.com, for each Regulatory Agreement to which a Property is subject.

Sections 23.3(a) through (g) provide Freddie Mac's requirements for Properties receiving payments through the Section 8 program. It includes requirements for Section 8 project-based subsidies, tenant-based subsidies, income and expense requirements, Replacement Reserves, Transition Reserves, underwriting Short Term and Long Term Section 8 contracts, and underwriting criteria for Properties with Section 8 voucher holders.

Sections 23.4(a) through (c) address Properties benefiting from Section 236 interest subsidies, also referred to as Interest Reduction Payments (IRPs). It includes Freddie Mac's requirements for the two types of Section 236 interest subsidies, Basic Rent and Fair Market Rent, and underwriting the real estate component and the IRP component of the Section 236 Mortgage.

### *Additional TAH Requirements for Cash Mortgages*

We are revising Chapter 19, Originating a Targeted Affordable Housing Cash Mortgage, to contain some general requirements applicable to all TAH Cash Mortgages, as well as requirements specific to Preservation Rehabilitation Mortgages and LIHTC.

- Section 19.3(a) includes the minimum term for a LIHTC Mortgage and vacancy and collection rate requirements that Freddie Mac uses in underwriting, including requirements for government-subsidized units.
- Section 19.3(d) includes additional underwriting requirements for cash purchases of Mortgages with 9% LIHTC.
- Section 19.3(e) includes underwriting requirements for Preservation Rehabilitation Mortgages with LIHTC.

### *Additional TAH Requirements for Bond Credit Enhancement Mortgages*

We are also revising Chapter 28, Originating a TAH Bond Credit Enhancement Mortgage, to contain additional TAH requirements, as follows:

- Sections 28.1(e) through (g) provide requirements for combination financing, 501(c)(3) bonds, and Preservation Rehabilitation Mortgages, respectively.
- Sections 28.2(a) through (d) have been added to Chapter 28 to include requirements for the calculation of debt service ratios, vacancy and collection loss rates, the maximum term and amortization period for LIHTC Properties, and adjustments to the capitalization rate for a Property with tax-exempt bond financing.
- Section 28.12(c) includes additional requirement for calculating the funding amount for the principal reserve fund.

### Revisions to Requirements for Screening against the OFAC, FHFA SCP and Exclusionary Lists

In the September 25 Guide Bulletin we updated our requirements for compliance with Office of Foreign Assets Control (OFAC) regulations, and introduced new requirements for screening against the Federal Housing Finance Agency (FHFA) Suspended Counterparty Program (SCP) List. After publication, we received a number of inquiries from Seller/Service providers regarding the changes, which we addressed in an email to Seller/Service providers on October 30.

While the majority of the requirements announced in September will remain in place, we are making several changes that will reduce the compliance burden on Borrowers and Seller/Service providers.

- We are removing the requirement to screen the following against the OFAC SDN List, the OFAC Consolidated Sanctions List, the FHFA SCP List, and the Freddie Mac Exclusionary List:
  - Any owner of the property management company with an ownership interest of 25 percent or more
  - Any individual exercising management and/or control over the operations of the property management company
- We are removing screening requirements against the Freddie Mac Exclusionary List and the FHFA SCP List from Form 1115, Borrower and Borrower Principal Certificate.
- We are revising the definition of Borrower Principal and adding a definition for Non-U.S. Equity Holder to clarify that Non-U.S. Equity Holders are subject only to the OFAC screening requirements of the Form.

The changes affecting the screening of property management companies are found in Sections 2.18(c), 8.13 and 43.19(c) of the Seller/Service provider Guide, and Sections 8.13 and 43.20(c) of the SBL Addendum. The updates pertaining to the screening of Non-U.S. Equity Holders are found in the Glossary and in Sections 9.3, 41.1(d), 43.28, 44.1(c) and 55.2, and in the corresponding chapters of the SBL Addendum, except that the changes to Section 43.28 are found in Section 43.29 of the SBL Addendum. The updates made to Form 1115 are also reflected in Form 1115-SBL, Borrower and Borrower Principal Certificate – SBL, which we are introducing with the publication of this Guide Bulletin.

## Seismic Risk Changes

We are making the following changes to Chapter 16:

- In Section 16.2(b), we are revising the requirements for determining whether a Property is located in an Elevated Seismic Hazard Region. For any Property located in Hawaii, Alaska (limited to within 100 miles of the city of Anchorage or the Gulf of Alaska), or one of the U.S. territories, the Seller/Servicer must assume that the PGA is greater than 0.15g, and a Seismic Risk Assessment (SRA) is required. For areas of Alaska outside the delineated area, the Seller/Servicer can assume a PGA of less than 0.15g and an SRA will not be required.
- Also in 16.2(b), we are updating the Data Element Input Table to delete specific references to AZ, CO, ID, MT, NM, and WY, so that the  $V_{s30}$  (m/s) to be used for these locations is now 760.0.
- We are revising Section 16.3 to require the Seller/Servicer to obtain a Level 0 SRA if a Level 0 SRA is required for the Property. Previously, Freddie Mac ordered the Level 0 SRAs.
- In Section 16.4, we are revising our requirements to state that the Level 0 SRA must be dated within six months before the date on which the full underwriting package is delivered to Freddie Mac.

To reflect these changes to Section 16.2(b), we have also revised the Elevated Seismic Hazard Region Map on FreddieMac.com.

## Updates to the Annual Certification Reports

Freddie Mac relies on the annual certification reports to provide a snapshot of the status of our Seller/Servicers and Servicers, and their ability to continue doing business with Freddie Mac. This year, we are making the following revisions to Form 16M, Multifamily Annual Certification Report; Form 17M, Multifamily Annual Certification Report – Structured Transaction & Tax-Exempt Bond Seller/Servicers; and Form 1110M, Multifamily Annual Certification Report – Servicer Only:

- Requesting the Taxpayer Identification Number to be submitted
- Expanding the contact section on Forms 16M and 17M
- Including questions concerning the Seller/Servicer's use of sub-servicers, the servicing system employed by the Seller/Servicer, servicing activities performed outside the U.S. or its territories, and any vendors used by the Seller/Servicer
- Adding a new section on OFAC compliance, FHFA SCP screening, and anti-money laundering programs
- Updating the section on certification, consent and agreement

As a result of these changes, we will no longer be providing Form 16M, Multifamily Annual Certification Report, as a software application. Instead, the new Form 16M will be a fillable PDF and will be posted on AllRegs and FreddieMac.com. With this Guide Bulletin we are publishing draft versions of Form 16M, 17M, and 1110M. The updated forms will be published on AllRegs and FreddieMac.com on January 15, 2016.

For Seller/Servicers and Servicers with a fiscal year ending on December 31, 2015, Forms 16M, 17M, and 1110M, as applicable, will be due to Freddie Mac on March 31, 2016.

We have also revised Sections 3.5(a), 3.5(b), 39.2(b) and 39.3(d) to state that the reports and any required attachments may be submitted to Freddie Mac following the instructions found on the form.

## New Web-based Automated System for Cash Remittances

Freddie Mac is revising the Guide to change references to the automated system and the service bureau that Servicers must use for initiating monthly cash remittances, and to include the new web-based automated system. Servicers must initiate monthly cash remittances telephonically or online via the GPI Cash Remittance System, which can be accessed via FreddieMac.com. Section 53.7(e) provides instructions for initiating cash remittances telephonically or through the web-based system. For additional information, the Servicer may:

- Review Exhibit 4, Cash Remittance System.
- Visit the Freddie Mac Learning Center at [www.freddiemac.com/learn/pdfs/service/cashremittance.pdf](http://www.freddiemac.com/learn/pdfs/service/cashremittance.pdf).
- Contact (800) FREDDIE and select Option 4 for Servicing.

In addition to Section 53.7(e), we have also revised Sections 50.7, 52.3, 53.7(a), 53.7(b), 53.7(d), 53.7(f) and 53.8 to reflect these changes.

## Updates to Requirements for Eligible Depositories

We are revising the minimum rating requirements for FDIC-insured depository institutions to be considered an eligible depository. The new minimum ratings requirements are as follows:

- For Fitch Ratings, F1 or better
- For Standard & Poor's Ratings, A-1 or better
- For Moody's Investors Service, P-1 or better

These changes, which can be found in Section 55.2(a), align the ratings requirements for eligible depositories in the Guide with the minimum ratings requirements used by the Pooling and Servicing Agreements (PSAs).

In Section 52.7(b), we are also requiring lockbox services utilized by a Servicer to be maintained at an eligible depository, as defined in Section 55.2.

## Moderate Rehabilitation Mortgages

In Section 17.4(b), we are noting that Freddie Mac will purchase Moderate Rehabilitation Mortgages, which enable a Borrower to make renovations to the Property beyond the levels available to Value-Add Mortgages, subject to additional conditions. For additional information, Seller/Servicers should contact the Applicable Freddie Mac Multifamily Regional Office that serves the region where the Property is located.

## Other Administrative and Forms Changes

We are making the following additional administrative and forms changes:

- In Section 13.11(a), defining PCB contamination as equipment containing more than 50 parts per million (PPM), but less than 500 PPM, and making other minor rewording changes to Section 13.11
- In Section 2.13(a), introducing Form 1146, System Administrator Request/Deactivation Form, which must be used by the Seller/Servicer when adding or changing system administrators

- In Sections 2.7 and 3.5(a), removing references to Regulation AB audits from our requirements concerning Freddie Mac audits, because of changes to our audit process
- In Section 29.4(a), updating the requirements for UCC searches for Seniors Housing Mortgages to refer to the Final Delivery Instructions on FreddieMac.com
- In the Directory, updating the email address for Customer Compliance Management
- Updating Form 1103, Environmental Site Assessment, and Form 1105, Property Condition Assessment to include the new Freddie Mac Multifamily Logo and other minor formatting changes and improvements
- Updating Form 1116, Real Estate Schedule, to add Asset Types appropriate for Manufactured Housing Community Properties
- Revising the following forms to include minor wording changes and the new logo
  - Form 1117, Borrower Certification of Physical and Environmental Property Condition
  - Form 1117-SBL, Borrower Certification of Physical and Environmental Property Condition—SBL