



Fannie Mae®

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# Multifamily Selling and Servicing Guide

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## Section 303 Key Principals, Principals, and Guarantors

### 303.01 Generally

#### Requirements

For every Mortgage Loan, you must:

- identify and underwrite the Sponsor, any Guarantor, and all Key Principals and Principals of the Borrower;
- require the Borrower to disclose any foreign Persons whose direct or indirect ownership interest in the Borrower, in the aggregate, is 10% or greater; and
- ensure the Guarantor
  - is not a foreign person or a foreign entity, and
  - either has an ownership interest in the Borrower or ensure that the Guarantor has adequate legal consideration to enter into the Guaranty.

You must:

- not deliver a Mortgage Loan with
  - undisclosed Principals, or
  - a Blocked Person as a
    - Borrower,
    - Guarantor,
    - Key Principal, or
    - Principal;
- review the complete, unredacted organizational documents, and any amendments and restatements;
- comply with [Part III, Chapter 15: Mezzanine Financing and Preferred Equity, Section 1502: Preferred Equity](#) if the organizational documents provide any investor having a direct or indirect ownership interest in the Borrower with:
  - preferred rights to receive dividends, distributions, payments, or returns relative to other equity owners; or
  - the right to, directly or indirectly, force a



- sale of the Property,
- transfer of the direct or indirect ownership interests in the Borrower, or
- transfer of the Controlling Interest in the Borrower, Key Principal, or Guarantor; and

■ identify:

- as a Key Principal any Person with control takeover rights per the Preferred Equity Checklist (Form 6441); and
- Principals based on the aggregate of all direct and indirect ownership interests in the Borrower held per the following table.

| If the Borrower (or the Person owning an interest in the Borrower) is a... | Then a Principal is...   |
|--|--|
| General Partnership or Joint Venture                                       | any general partner or joint venturer.   |
| Limited Partnership  | <ul style="list-style-type: none"> <li>• all general partners;</li> <li>• any Person who owns, directly or indirectly, an aggregate 25% or more limited partnership interest in the Borrower through any single limited partner; and</li> <li>• any Person who owns, directly or indirectly, an aggregate 25% or more limited partnership interest in the Borrower through multiple limited partners.</li> </ul> |
| Privately-Held Corporation   | any Person who owns 25% or more of the voting stock in the Borrower.   |
| Limited Liability Company  | <ul style="list-style-type: none"> <li>• all non-member managers or member-managers;</li> <li>• any Person who owns, directly or indirectly, an aggregate 25% or more membership interest in the Borrower through any single member; and</li> <li>• any Person who owns, directly or indirectly, an aggregate 25% or more membership interest in the Borrower through multiple members.</li> </ul>               |
| Co-Tenant Borrower   | any Person who owns, directly or indirectly, a 25% or more ownership interest in each co-tenant.   |



| If the Borrower (or the Person owning an interest in the Borrower) is a... | Then a Principal is...  |
|--|---|
| Trust (other than a Land Trust)  | <ul style="list-style-type: none"> <li>• the grantor (if the trust is a revocable trust or if the grantor or settlor has retained powers);</li> <li>• any Person who has a 25% or more beneficial interest in the trust; and</li> <li>• any trustee.</li> </ul> |
| Land Trust   | any Person who has <ul style="list-style-type: none"> <li>• the power of direction, and</li> <li>• a 25% or more beneficial ownership interest in the land trust.</li> </ul>  |

**Guidance**

For example: Borrower ABC Apartments, LLC has the following ownership structure:

| Equity Owner     | Role                | Direct Ownership % in Borrower | Member Equity Owner and % Interest | Aggregate Indirect Ownership % in Borrower |
|------------------|---------------------|--------------------------------|------------------------------------|--|
| ABC Reality, LLC | Managing Member     | 1%                             | John Doe - 100%                    | 1%   |
| Member A, LLC    | Non-managing Member | 19.80%                         | Bob Smith - 50%                    | 9.9%                                       |
|                  |                     |                                | Others - 50%                       | 9.9%                                       |
| Member B, LLC    | Non-managing Member | 19.80%                         | Bob Smith - 50%                    | 9.9%                                       |
|                  |                     |                                | Others - 50%                       | 9.9%                                       |
| Member C, LLC    | Non-managing Member | 19.80%                         | Bob Smith - 20%                    | 3.96%                                      |
|                  |                     |                                | XYZ Owner, LP - 80%                | 15.84%                                     |



| Equity Owner  | Role                | Direct Ownership % in Borrower | Member Equity Owner and % Interest | Aggregate Indirect Ownership % in Borrower |
|---------------|---------------------|--------------------------------|------------------------------------|--|
| Member D, LLC | Non-managing Member | 19.80%                         | Bob Smith - 50%                    | 9.9%                                       |
|               |                     |                                | Sally White - 50%                  | 9.9%                                       |
| Member E, LLC | Non-managing Member | 19.80%                         | Bob Smith - 50%                    | 9.9%                                       |
|               |                     |                                | Others - 50%                       | 9.9%                                       |

In addition, the ownership interest of XYZ Owner, LP is:

| Equity Owner      | Role            | Direct Ownership % in XYZ Owner, LP | Aggregate Indirect Ownership % in Borrower |
|-------------------|-----------------|-------------------------------------|--|
| 987 Investor, LLC | General Partner | 1%                                  | 0.16%                                      |
| Sally White       | Limited Partner | 99%                                 | 15.68%                                     |

You must identify:

- Bob Smith as a Principal of ABC Realty based on his aggregate 43.56% indirect ownership interest in the Borrower; and
- Sally White as a Principal of ABC Realty based on her aggregate 25.58% indirect ownership interest in the Borrower.

It is immaterial that:

- neither Bob Smith nor Sally White has any direct ownership interest in the Borrower or the managing member of the Borrower; and
- none of the non-managing members of the Borrower owns greater than the 25% direct interest in the Borrower that would qualify for being identified as a Principal.

## 303.02 Entity Review



Guidance



When you review an entity, consider the following questions:

- If it is an existing entity (e.g., a corporation, limited liability company, limited liability partnership, or other acceptable structure) that is not newly formed, does it comply with the requirements for a Borrower owning more than a single asset per [Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 302.01: Single-Asset Entity?](#)
- Is it a well-capitalized, stable, ongoing business that would be expected to:
  - Remain financially healthy?
  - Support the Property?
  - Meet all Guarantor requirements and obligations under the Guaranty?
  - Have assets and net worth that are significantly greater than what would be minimally acceptable for an individual Key Principal?

### 303.03 Fund Review

#### ➔ Guidance

When you review a fund, consider the following questions:

- What is the experience and performance history of the fund manager with similar funds?
- Can the fund raise equity from financially substantial investors?
- What is the performance of the fund?
- What is the leverage level of the fund?
- What is the net worth and liquidity of the fund?
- What is the type and quality of
  - the Property and market,
  - other existing properties and markets, and
  - any potential additional properties and markets targeted by the fund pursuant to its agreements?

Additionally, you should review the organizational documents and private placement memorandum (if applicable) for the following information:

- the fund's expiration date;
- any extension to the fund's existence and conditions to approve that extension; and



- the process for winding up the business affairs of the fund, including whether the fund is organized in a state that requires the orderly dissolution of investment funds, such as Delaware or Illinois.



# Glossary

## B

**Blocked Person** Any Person who is:

- on the FHFA SCP List;
- sanctioned or blocked by OFAC; or
- identified on:
  - HUD's "Limited Denial of Participation, HUD Funding Disqualifications and Voluntary Abstentions List"; or
  - General Services Administration's "System for Award Management (SAM) exclusion list".

**Borrower** Person who is the obligor per the Note.

**Synonyms**

- Borrowers
- Borrower's

## C

**Co-Tenant Borrower** Borrower consisting of tenants-in-common that own the Property in equal or unequal shares.

**Synonyms**

- Co-Tenant Borrowers

**Controlling Interest** For any entity, ownership or control of 50% or more of the ownership interests in the entity or the power or right to control or modify, directly or indirectly, the management and operations of the entity.

## G



**Guarantor** Key Principal or other Person executing a

- Payment Guaranty,
- Non-Recourse Guaranty, or
- any other Mortgage Loan guaranty.

**Synonyms**

- Guarantors

**Guaranty** Payment Guaranty, Non-Recourse Guaranty, or other guaranty by a Guarantor for the Mortgage Loan.

## **I**

**Investor** MBS Investor for an MBS Mortgage Loan, or Fannie Mae for a Cash Mortgage Loan.

**Synonyms**

- Investors
- Investor's

## **K**

**Key Principal** Person who

- controls and/or manages the Borrower or the Property,
- is critical to the successful operation and management of the Borrower and the Property, and/or
- may be required to provide a Guaranty.

**Synonyms**

- Key Principals
- Key Principal's

## **M**

**Mezzanine Financing** Subordinate debt financing provided to a direct or indirect owner of a Borrower that is secured by a pledge of the direct or indirect equity interest in the Borrower held by the owner, and not by a Lien on the Property.



## Mortgage Loan

Mortgage debt obligation evidenced, or when made will be evidenced, by

- the Loan Documents, or
- a mortgage debt obligation with a Fannie Mae credit enhancement.

### **Synonyms**

- Mortgage Loans
- Mortgage Loan's

## **P**

## Person

Legal person, including an

- individual,
- estate,
- trust,
- corporation,
- partnership,
- limited liability company,
- financial institution,
- joint venture,
- association, or
- other organization or entity (whether governmental or private).

### **Synonyms**

- Persons
- Person's

## Preferred Equity

A direct or indirect equity investment in an entity providing that investor with preferred rights to receive dividends, distributions, payments, or returns relative to other equity owners.



## Principal

Person who owns or controls, in the aggregate, directly or indirectly (together with that Person's Immediate Family Members, if an individual), specified interests in the Borrower per Part I, Chapter 3: Borrower, Guarantor, Key Principals, and Principals, Section 303: Key Principals, Principals, and Guarantors.

### **Synonyms**

- Principals

## Property

Multifamily residential real estate securing the Mortgage Loan, including the

- fee simple or Leasehold interest,
- Improvements, and
- personal property (per the Uniform Commercial Code).

### **Synonyms**

- Properties
- Property's

## S

## Sponsor

Principal equity owner and/or primary decision maker of the Borrower (often the Key Principal or the Person Controlling the Key Principal).

### **Synonyms**

- Sponsors
- Sponsor's