

## **SUBJECT: New FHA Condominium Approval Final Rule**

**October 28, 2019**

### **\*\* IMPORTANT NOTICE \*\***

#### **NEW FHA CONDOMINIUM APPROVAL FINAL RULE**

On August 14, 2019, with [FHA INFO 19-41](#), FHA announced its Condominium Project Approval Final Rule (Project Approval for Single Family Condominiums) and implementation of the Rule with publication of new condominium sections of FHA's *Single Family Housing Policy Handbook 4000.1* ([SF Handbook](#)).

#### **SF Handbook Updates**

The *SF Handbook* has been extensively revised. Updates include:

- Adds new Section II.A.8.p, *Condominiums*, including Loan Level Review requirements and the new Single-Unit Approval process – Changes are effective for Case Numbers assigned on or after **October 15, 2019**.
- Adds new Section II.C, *Condominium Project Approval*, providing requirements for HRAP and DELRAP Project Approvals – Changes are effective for Condominium Project Approvals and re-certifications on or after **October 15, 2019**.
- Incorporates into the new sections Condominium Project Approval policy language from other *SF Handbook* sections and FHA condo-related policy issued to-date, including the *Condominium Project Approval and Processing Guide*, originally introduced in *Mortgage Letter 2011-22*.
- Updates requirements and sets standards for minimum owner-occupancy, maximum commercial space, and maximum FHA insurance concentration percentages.
- Updates are made to sections I.A, II.D, and V to align with definitions and requirements in the new sections. Additional technical edits were made throughout the *SF Handbook*.

For a summary of new *SF Handbook* Section II.A.8.p, *Condominiums*, see the **At-A-Glance** below in this announcement.

The table below provides an At-A-Glance summary of the key Loan Level Review and the Single-Unit Approval requirements found in new *SF Handbook* Section II.A.8.p.

Topic <i>SF Handbook</i> Section	At –A-Glance - <i>SF Handbook</i> Section II.A.8.p – <i>Loan Level Review and Single-Unit Approval</i> See the <i>SF Handbook</i> for complete requirements
Condominiums - Units Not Requiring Approval  <i>II.A.8.p.i</i>	<ul style="list-style-type: none"> <li>• <b>Units not requiring approval:</b> <ul style="list-style-type: none"> <li>○ HUD Real Estate Owned (REO) Mortgage Transactions</li> <li>○ Streamline Refinances</li> <li>○ Site Condominiums as defined in <i>II.A.8.p.iv. Site Condominium</i></li> </ul> </li> </ul>
Condominiums – Requirements for Units in Approved Condominium Projects  { <i>Loan Level Review</i> }  (Note: Some requirements differ for Single-Unit Approvals – see the <i>Single-Unit Approval</i> sections below in this table.)  <i>II.A.8.p.ii.(A) – (I)</i>	<ul style="list-style-type: none"> <li>• <b>(A) Condominium Project Approval Status:</b> The Mortgagee must confirm the project is on the list of <i>FHA Approved Condominium Projects</i> at the time of case number assignment, and must enter the FHA Condo ID in the FHAC Case Assignment screen.</li> <li>• <b>(B) FHA Insurance Concentration:</b> FHA may suspend the issuance of new FHA case numbers for a Mortgage on a Unit in a Condominium Project where the FHA Insurance Concentration is &gt; <b>50%</b> of the total number of Units in the Condominium Project.</li> <li>• <b>(C) Owner Occupancy:</b> Minimum Owner Occupancy Percentage must be ≥ <b>35%</b> of the total number of Units.</li> <li>• <b>(D)(1) Financial Condition – Units in Arrears:</b> ≤ <b>15%</b> of the total Units may be more than <b>60 Days past due</b>.</li> <li>• <b>(D)(2) Financing Condition - Individual Owner Concentration:</b> For Projects with ≥ <b>20 Units</b>, the Individual Owner Concentration must be ≤ <b>10%</b>. For Projects with &lt; <b>20 Units</b>, the Unit owner may not own more than <b>one Unit</b>. No Related Party, as defined in <i>SF Handbook II.A.8.p.ii.(D)(2)(a)</i>, may own a Unit.</li> <li>• <b>(E)(1) Insurance - Walls-In:</b> If the master or blanket policy does not include interior unit coverage, the borrower must obtain a Walls-In policy (HO-6), including <b>replacement</b> of interior improvements and <b>betterment coverage</b> to insure improvements that the Borrower may have made to the Unit.</li> <li>• <b>(E)(2) Insurance - Hazard:</b> The Condo Association must have a master or blanket Hazard Insurance policy in place for the entire Project for ≥ <b>100%</b> of the insurable replacement cost of the Project, including the individual Units in the Project.</li> <li>• <b>(E)(3) Insurance - Flood:</b> Units in an Approved Condominium Project located in a Special Flood Hazard Area (SFHA) must continue to meet the Flood Insurance requirements in the <i>Condominium Project Approval, Section II.C</i>. The condo association (or affiliate) must be named as an insured.</li> <li>• <b>(F) Leasehold Interests:</b> The Mortgagee must determine if the Unit is owned under a Leasehold Interest and complies with the leasehold guidance and document verification of compliance.</li> <li>• <b>(G)(H) New Construction and Gut Rehabilitation:</b> The Mortgagee must comply with the <i>General Condominium Project Approval Requirements</i> and the guidance in <i>New Construction</i>.</li> </ul>
Condominiums – <i>Single-Unit Approval</i>  <i>II.A.8.p.iii.(A) – (C)</i>	<ul style="list-style-type: none"> <li>• <b>(A) Condominium Project Approval Status:</b> The Condominium Project <b>must not be</b> on the list of <i>FHA Approved Condominium Projects</i> at the time of case number assignment.</li> <li>• <b>(B) Borrower Eligibility:</b> TOTAL Mortgage Scorecard “<b>Accept</b>”, or ≤ <b>90% LTV</b> is required.</li> <li>• <b>(C) Property Eligibility:</b> The Mortgagee must confirm that the Condominium Project: <ul style="list-style-type: none"> <li>○ has a Certificate of Occupancy (CO) that was issued at least <b>1 year</b> ago or has been occupied;</li> <li>○ has at least <b>5 Units</b>;</li> <li>○ is not a Manufactured Home;</li> <li>○ does not have Ineligible Characteristics; and</li> <li>○ is not located in an Approved Condominium Project or unapproved phase of a Condominium Project with an approved Legal Phase.</li> </ul> </li> </ul>
Condominiums – Requirements for Eligible Properties  <i>Single-Unit Approval</i>  <i>II.A.8.p.iii.(D)(1-4)</i>	<ul style="list-style-type: none"> <li>• <b>(D)(1) FHA Insurance Concentration:</b> FHA may suspend the issuance of new FHA case numbers for a Mortgage on a Unit in a Condominium Project where the FHA Insurance Concentration is &gt; <b>10%</b> of the total number of Units in the Condominium Project. FHA will verify insurance concentration and determine if case number can be issued under the Interim Protocols published in <i>ML 2019-13</i>.</li> <li>• <b>(D)(2) Owner Occupancy:</b> Minimum Owner Occupancy Percentage is ≥ <b>50%</b> of the total number of Units.</li> <li>• <b>(D)(3) Recorded Documents:</b> The Condo Project’s Recorded Documents must be recorded in accordance with applicable state and local law to ensure the Project can be legally operated in the local jurisdiction.</li> <li>• <b>(D)(4) Transfer of Control:</b> The Mortgagee must verify Control of the Condominium Association has been transferred to the Unit owners and submit the recorded CC&amp;Rs.</li> </ul>

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Topic SF Handbook Section	At –A-Glance - SF Handbook Section II.A.8.p – Loan Level Review and Single-Unit Approval See the SF Handbook for complete requirements
Condominiums – Requirements for Eligible Properties  Single-Unit Approval  II.A.8.p.iii.(D)(5)	<ul style="list-style-type: none"> <li>• <b>(D)(5)(a) Financial Condition – Financial Stability:</b> The Mortgagee must verify the Financial Stability of the Condominium Project and that: the Condominium Association maintains separate accounts for operating and reserve funds; a reserve account for capital expenditures and deferred maintenance that is funded with <math>\geq 10\%</math> of the aggregate monthly Unit assessments, unless a lower amount is deemed sufficient based upon an acceptable reserve study; and, <math>\leq 15\%</math> of the total Units are Units in Arrears (does not include late fees or administrative expenses).</li> <li>• <b>(D)(5)(b) Financial Condition – Financial Distress Event:</b> The Mortgagee must verify that a Condominium Project has not experienced a Financial Distress Event (e.g. BK, receivership, foreclosure of asset seizure, Deed-in-Lieu) within the last <b>3 years</b>.</li> <li>• <b>(D)(5)(c) Individual Owner Concentration:</b> For Projects with <math>\geq 20</math> Units, the Individual Owner Concentration must be <math>\leq 10\%</math>. For Projects with <b>&lt; 20 Units</b>, the Unit owner may not own more than <b>one Unit</b>. No Related Party may own a Unit.</li> <li>• <b>(D)(5)(d) Commercial/Non-Residential Financial Independence:</b> For Condominium Projects with Commercial/NonResidential Space, the Mortgagee must submit: a current year budget approved by the board(s); a YTD income and expense statement dated within 90 Days if the prior year-to-date actuals are &gt; 90 Days old; an income and expense statement for the previous year’s actual year end results; and a current balance sheet dated within 90 Days prior to the date of submission.</li> </ul>
Condominiums – Requirements for Eligible Properties - Insurances  Single-Unit Approval  II.A.8.p.iii.(D)(6)	<ul style="list-style-type: none"> <li>• <b>(D)(6)(a) Insurance - Walls-In:</b> If the master or blanket policy does not include interior unit coverage, the borrower must obtain a Walls-In policy (HO-6), including <b>replacement</b> of interior improvements and <b>betterment coverage</b> to insure improvements that the Borrower may have made to the Unit.</li> <li>• <b>(D)(6)(b) Insurance - Hazard:</b> The Condo Association must have a master or blanket Hazard Insurance policy in place for the entire Project for <math>\geq 100\%</math> of the insurable replacement cost of the Project, including the individual Units in the Project.</li> <li>• <b>(D)(6)(c) Insurance – Liability:</b> The Mortgagee must verify that the Condominium Association maintains comprehensive Liability Insurance for the entire Condominium Project, including all common areas, elements, public ways, and all other areas that are under its supervision, in the amount of at least <b>\$1 million</b> for each occurrence.</li> <li>• <b>(D)(6)(d) Insurance – Fidelity: For Projects &gt; 20 Units,</b> the Association must maintain Fidelity Insurance for all officers, directors, and employees of the Association and all other persons handling or responsible for funds administered by the Association. The insurance coverage must be the greater of: <b>3 months</b> of aggregate assessments on all Units plus reserve funds; or the minimum amount required by state law. If the Project engages a management company, the policies(s) must demonstrate that they specifically meet the standard for both the Condominium Association and the management company.</li> <li>• <b>(D)(6)(e) Insurance - Flood:</b> Units in a Condominium Project located in a Special Flood Hazard Area (SFHA) must meet the Flood Insurance requirements in Section II.C, <i>Condominium Project Approval</i>.</li> </ul>
Condominiums – Single-Unit Approval  II.A.8.p.iii.(D)(7)	<ul style="list-style-type: none"> <li>• <b>(D)(7)(a) Projects in Coastal Barrier Resources System:</b> If any part of the Condominium Project is located within the Coastal Barrier Resources System (CBRS), the Project is <b>not eligible</b> for FHA Single-Unit Approval.</li> <li>• <b>(D)(7)(b) Projects in Special Flood Hazard Areas:</b> If any portion of the Structures or equipment essential to the value of the Condominium Project is located within an SFHA, then the Condominium Project is not eligible for Condominium Project Approval, unless the Condominium Project meets the Special Flood Hazard Areas requirements in the Condominium Project Approval section.</li> </ul>
Condominiums – Single-Unit Approval  II.A.8.p.iii.(D)(8-9)	<ul style="list-style-type: none"> <li>• <b>(D)(8) Commercial/Non-Residential Space:</b> The Project’s Commercial/Non-Residential Space may be <math>\leq 35\%</math> of the Project’s Total Floor Area (as documented by recorded Site Condominium Plans and recorded CCRs).</li> <li>• <b>(D)(9) Live/Work Units:</b> Project governing documents must allow Live/Work arrangements and individual Live/Work Unit <b>does not contain &gt; 49 %</b> Commercial/Non-Residential Space.</li> </ul>
Condominiums – Single-Unit Approval  II.A.8.p.iii.(D)(10)	<ul style="list-style-type: none"> <li>• <b>(D)(10) Leasehold Interest:</b> A <b>copy of the lease</b> must be submitted by the Mortgagee, <b>and</b> the Mortgagee must determine if Projects with Units or Common Elements owned under a Leasehold Interest are eligible and meet the following requirements: The Association must be the lessee under the lease; The lease of the Common Elements provides that a default of the Association does not result in a disturbance of any rights of the Unit owners; The lease provides that the Mortgagee receives notice of any monetary or Non-Monetary Default by the Association and is given the right to cure any defaults on behalf of the Association; The lease provides for the payment of taxes and insurance related to the land, in addition to those being paid for the improvements; The Association must not be in default under any provisions of the lease; The lease does not include any default provisions that could result in forfeiture or termination of the lease except for nonpayment of lease rents; The Project must comply with the Title II Leasehold guidance as applicable.</li> </ul>
Condominiums – Single-Unit Approval  II.A.8.p.iii.(D)(11)	<ul style="list-style-type: none"> <li>• <b>(D)(11) Litigation:</b> The Mortgagee must verify that the Condominium Project or Association is not subject to Litigation that relates to the <b>safety, structural soundness, habitability, or functional use</b> of the Project. The Mortgagee must verify that the Project or Association is not subject to any other Litigation risk not covered by insurance or that exceeds the amount of insurance coverage relating to the potential losses for that matter.</li> </ul>



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Condominiums –  <i>Site Condominiums</i>  II.A.8.p.iv. (A) – (C)	<ul style="list-style-type: none"> <li>• <b>Site Condominiums:</b> Project Approval is not required.</li> <li>• <b>(A) Site Condominium refers to:</b> a Condominium Project that consists entirely of single family detached dwellings that have no shared garages, or any other attached buildings; or a Condominium Project that: consists of single family detached or horizontally attached (townhouse) dwellings where the unit consists of the dwelling and land; does not contain any Manufactured Housing units; and is encumbered by a declaration of condominium covenants or a condominium form of ownership.</li> <li>• <b>(B) Insurance:</b> Site Condominiums must have insurance and maintenance costs that are the sole responsibility of the Unit owner, excluding landscaping. Site Condominiums do not require Condominium Project Approval or Single-Unit Approval.</li> <li>• <b>(C) Documentation:</b> A Condominium Rider and Individual Condominium Unit Appraisal Report (Form 1073/465) must be provided. Flood insurance must meet Condominium requirements. Hazard insurance must cover the entire dwelling.</li> </ul>

Note: FHA Mortgage Letter [ML-2019-13](#), *Obtaining FHA Case Numbers for Single-Unit Approval Originations*, August 21, 2019, Provides guidance that applies to all mortgages on a Unit in a Condominium Project that is not FHA-approved and is processed under Single-Unit Approval. The Interim Protocols must be followed by the Mortgagee in order for FHA to determine if a case number can be issued.

Thank you,  
**Towne Family of Companies**



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