

Clarifications to the NHA MBS Allocation Policy

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Purpose

To announce further clarifications to the previous Advice No. 18 “Modification to the NHA-MBS Allocation Policy”, dated July 14, 2022.

Background

This follow-up Advice introduces further clarifications to the modification in the allocation methodology for new guarantees of market NHA MBS. Specifically, it refines the criteria for determining the originator, taking into account the level of documentation and the performance of certain functions, along with the related restrictions on post-securitization transactions.

Policy Amendment

Originator Definition

The originator of a securitized mortgage loan is an Approved Lender (or a Qualified Mortgage Lender, for loans insured by Approved Private Mortgage Insurers) that:

1. represents itself to the borrower (including to any agent of the borrower, such as a mortgage broker) and is clearly identified as the sole lender in the mortgage loan agreement(s) including but not limited to the mortgage commitment agreement, loan agreement or mortgage renewal agreement that is entered into between the lender and the borrower(s); **and**
2. is and will remain directly responsible for Approved Lender obligations under the mortgage insurance policy while the loan is securitized in NHA MBS; **and**
3. performs at least one of the following three functions:
 - a. manages the mortgage loan origination process directly by itself with the borrower or with the mortgage broker representing the borrower.
 - b. retains the mortgage loan’s funding commitment and interest rate risks from the time of mortgage loan commitment to mortgage loan funding date.
 - c. performs the administration and servicing function directly by itself for the mortgage loan.

If the originator designation cannot be determined based on the above criteria, the Approved Issuer should reach out to CMHC to discuss the transaction structure and the originator designation. In these circumstances, CMHC will, in its sole discretion, designate the entity that is the originator of the applicable loans.

Restrictions on Post-Securitization Transactions Resulting in Off-Balance Sheet Treatment

If an Approved Issuer pools a mortgage loan serviced by a third-party, the Approved Issuer cannot enter into an IO-strip sale, prepayment swap, or a similar transaction with the loan's third-party servicer who is not designated as the loan originator, that allows the Approved Issuer to achieve an off-balance sheet accounting treatment for the loan.

Loan Renewal Exemption

To address potential renewal issues for loans originated by lenders who rely on NHA MBS for mortgage funding, the originator definition will not take effect on insured multi-family and homeowner loans securitized in NHA MBS issued on or prior to December 31, 2024 (the "Legacy Loans") until the dates specified below:

For the renewals of Legacy Loans securitized in NHA MBS with an issuance date between January 1, 2025, and December 31, 2029, the Approved Issuer can report in the Schedule of Pooled Mortgages (CMHC 2824) the entity that had previously provided the NHA MBS guarantee allocation for the loan as the loan's originator, even if this entity doesn't meet the originator definition (Loan Renewal Exemption). In addition, if any multi-family Legacy Loan's maturity date goes beyond December 31, 2029, the Loan Renewal Exemption can also apply to the first renewal of such multi-family Legacy Loan.

Other than the Loan Renewal Exemption granted above, the Originator Definition will apply to all loans that are securitized on and after January 1, 2025.

Loan Renewal means extending a loan when it reaches maturity or renewing it early before maturity, including the loan conversion into a different interest type, where the insurance account number remains unchanged, and the terms of the insurance remain unchanged post-renewal.

Monitoring

CMHC plans to monitor the reporting compliance and accuracy as part of its auditing and review activities. An Approved Issuer should ensure that sufficient information can be made available for CMHC to examine its compliance with the originator definition and with the related restriction on post-securitization transactions, including any relevant information regarding any third-party transactions it enters into.

CMHC also plans to include the examination of the reported information as part of the Approved Issuer's Agreed-Upon Procedures Report (AUPR) to ensure compliance with the originator definition and with the related restriction on post-securitization transactions.

In the event that CMHC determines the Approved Issuer has failed to comply with the originator definition and reporting requirements, including as a result of entering into restricted post-securitization transactions, CMHC may, in its sole discretion, suspend or restrict the Approved Issuer's continued participation in the NHA MBS Program. This may involve limiting, in whole or in part, the Approved Issuer's ability to obtain additional guarantee allocation or use its existing guarantee allocation to issue NHA MBS.

Evaluation Period

The Evaluation Period for the evaluation and calculation of Aggregation Ratios by CMHC will continue to be the twelve-month period ending on (and including) the last day of the third calendar quarter of the year. The evaluation and calculation of Aggregation Ratios is performed by CMHC.

Implementation and Effective Date

The originator definition, the related restriction on post-securitization transactions and the Loan Renewal Exemption will take effect January 1, 2025.

Inquiries

For further details on these policy changes, please contact Geneviève Julien by email at gjulien@cmhc.ca.

For any other related questions on the NHA MBS Program, please contact the CMHC Securitization Centre by email at securitization@cmhc.ca.