Deadly Tower Collapse Complicates Condo Lending

Private lenders may be an option if a loan is rejected under stringent new GSE rules

By Jay Goldberg and Jeremy Drews

Even before last year's deadly collapse of a Surfside, Florida, condominium tower that grabbed international headlines, getting a conventional mortgage for a condo was difficult. Now, it's getting even harder.

At the start of this year, Fannie Mae stopped buying loans for condo units in buildings where major repairs have been deferred or where the condo association has been ordered by local authorities to remedy unsafe conditions. Freddie Mac imposed similar temporary guidelines that took effect Feb. 28, 2022.

The new rules from the government-sponsored enterprises (GSEs) follow the collapse of Champlain Towers South, an oceanfront condominium building near Miami. The failure of the tower resulted in tragedy. Nearly 100 people died in June 2021 when a portion of the aging structure filled with sleeping residents fell in the middle of the night.

This nightmarish episode spurred Fannie and Freddie to create new rules for condo associations. These rules were created, the GSEs said, after lenders and other industry stakeholders provided feedback about the potential risks. If they wish to continue doing business in this sector, mortgage lenders and originators must be aware of the temporary project-review requirements from the agencies, and they should seek alternatives for borrowers who can't qualify for an agency loan.

Renewed awareness

Condos are an important part of the U.S. housing market. There are an estimated 355,000 condo associations that house some 74 million people across the country, according to the Foundation for Community Association Research. These groups oversee millions of condo units that serve as retirement homes, starter homes and investment properties.

The phrase "critical repairs" is just one bit of terminology featured in the GSEs' updated condo-approval guidelines. Others include "material deficiencies," "significant deferred maintenance," and "routine repairs and maintenance." Among other questions, Fannie's new eight-page condo-project questionnaire asks for the date of the last building inspection performed by a licensed architect, licensed engineer or another professional.

In cases where buildings have documented structural defects, neither Fannie Mae nor Freddie Mac will greenlight a loan until the necessary repairs have been completed and recorded. The agencies' new policies are labeled as temporary, but no expiration date has been determined.

News reports after the collapse of Champlain Towers South revealed disagreement among property owners and board members about how much to spend on repairs for the 40-year-old tower. The tragedy focused new attention on the reality that other condos could be in danger as volunteer boards choose to delay maintenance rather than impose costly assessments on themselves and their neighbors. Beyond the typical aging of a condo building, many of these structures are waterfront towers, placing them in a geographic location that can create additional wear and tear.

Increased burden

Mortgage lenders want to do their part to prevent a repeat of the tragic loss of life seen in Surfside. The GSEs' new rules reflect this desire. While they are well-intentioned, they are sometimes creating confusion and delays.

Some of the new queries are quite detailed and others are troublingly vague. Condo boards tend to be run by volunteers without backgrounds in structural engineering, so finding someone to complete the questionnaire can be a challenge. If the questionnaire isn't filled out properly, the loan may become ineligible to be delivered to Fannie or Freddie.

Even before the recently revised guidelines, the GSEs have long refused to lend on certain condos for a variety of reasons. Fannie and Freddie reject loans for condo projects with nonowner occupancy rates of more than 50% and in buildings where more than 35% of the space is devoted to commercial use. Associations with low cash reserves, as well as properties that operate as short-term rentals and condotels, also are nonstarters for conventional lenders. Some of these rules date back to the Great Recession as condos proved to be a particularly risky property type in the real estate bubble that led to the financial crash of 2008.

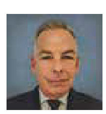
Additionally, the GSEs may take 60 to 90 days to sign off on the new paperwork, making it more difficult to meet a closing date in these scenarios. As a result of the new rules, private lenders have been hearing from mortgage brokers who say the arduous new process is delaying or killing deals. Private lenders don't want to lend on buildings that are on the verge of collapse. But there is a more streamlined and efficient way to perform the necessary due diligence. Some private lenders use a condo questionnaire that is two pages long and unchanged since the Surfside incident.

The onerous rules also may partially explain why so many condo sales close with no financing. In Florida, for instance, there were 160,177 sales of condos and townhouses in 2021, according to Florida Realtors. More than half of these deals were all-cash transactions. By contrast, only 30% of the state's single-family home sales last year were cash deals.

Private loan options

The stricter rules imposed by Fannie and Freddie have created opportunities for nonagency lenders. These companies use more flexible, common-

Continued on Page 78 ▶



Jay Goldberg is a regional manager for LendSure Mortgage Corp. He has been deeply involved in nonconforming lending dating back to the early 1990s. Starting as an account executive and now active in management at LendSure, Goldberg has a strong understanding of lenders' needs and how to best assist the broker community. He also has valuable comprehension of self-employment structures through experience in small-business platforms. His ability to adeptly communicate with brokers and sales staff has been key to his success in the nonconforming mortgage lending space. Reach him at jgoldberg@lendsure.com.

Jeremy Drews is a regional manager for LendSure Mortgage Corp. Since 2005, he has served in account executive and regional management capacities at Accredited Home Lenders and LendSure. His work in wholesale lending services extends to several resort areas in the West, including Southern California; Las Vegas; Lake Tahoe, Nevada; and the Utah markets of Park City and St. George. Drews also is a licensed mortgage originator. Reach him at jdrews@lendsure.com.

◀ **Condo** continued from Page 76

sense guidelines than those implemented by the GSEs. As a result, private lenders are able to do business with a number of highly creditworthy borrowers.

Many borrowers looking to purchase a condo have high credit scores and/or sizable assets. They could pay cash for their condo but prefer to use someone else's money. This is why private lenders offer a type of product known as a nonwarrantable condo loan. These mortgages are available to borrowers who find themselves locked out of GSE financing due to the new certification requirements.

Nonwarrantable condo loans come with less stringent underwriting requirements involving such issues as nonowner occupancy rates, condo association reserve levels or the presence of short-term rentals. Borrowers can expect to pay roughly 0.5% to 1% more than the rate for conventional financing.

Naturally, nonwarrantable condo loans don't allow private lenders to say yes to every deal, but these specialty lending companies are far more likely to approve a condo loan than a conventional lender. For example, they may dig more deeply into the details of pending litigation against a condo board or be willing to lend in buildings where up to 90% of the units are investor owned.

Nonagency lenders also are much more willing to do loans for condotels, for buildings under renovation, and for condos in buildings where more than 35% of the space is devoted to commercial use. All of these issues are deal-breakers for conforming lenders.

That's not to say that private lenders will lend in absolutely every situation. If the condo board is facing litigation about a major structural issue, for instance, a private lender may not do the loan. Broadly speaking, however, private lenders have the flexibility to say yes to condo loan applications that the agencies reject. ●

KEY POINTS

Condo lending can be a tricky proposition

- Condominiums account for a significant share of the U.S. housing market.
- Last year's condo collapse in Florida sparked change in the mortgage industry.
- Fannie Mae and Freddie Mac recently tightened their rules for condo loan purchases.
- The agencies already had more guidelines in place than private lenders.
- These high hurdles equate to fewer loan origination opportunities for condos.
- A nonwarrantable condo loan can help a borrower locked out of conventional financing.