



**CITADEL**  
SERVICING CORPORATION

# **Non-Owner Business Purpose Program**

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## 1. SUMMARY

Citadel Servicing Corporation (“CSC”) has reviewed recent updates to Official Interpretations as provided by the CFPB in connection to Regulation X and Regulation Z. These Official Interpretations make the statement that any mortgage loan against a Non-Owner Occupied (“NOO”) investment property being used to “(i) acquire, (ii) improve, or (iii) maintain” said property can be considered specifically a “Business Purpose” loan. The identification of a mortgage as Business Purpose loan, compared to a consumer loan, allows for an exemption to the requirements of Regulation X and Regulation Z.

Under this Program, CSC can originate, via retail or wholesale channels, or purchase, via correspondent channel, non-owner occupied loans without regard to the compliance and conformance to Disclosures issuance, timing, or tolerances required under Regulation X and / or Regulation Z. Further, as Regulation Z also incorporates Ability-to-Repay, CSC may also disregard the eight-point test and requisite required documentation therein mandated.

Under this updated CSC Program, we are making the distinction between three potential classifications for NOO loans:

- (i) CSC’s Non-Prime Product;
- (ii) CSC Outside Dodd-Frank (“ODF”) Product where the subject property has a calculated DSCR; and
- (iii) CSC ODF Product where the subject is considered a “Business Purpose” loan.

Of these three, the risk increases moving from (i) to (iii) and pricing should correspondingly be reflected in the updated program matrixes.

The following Program Proposal will convey the details of the new exemption and allowances created in our lending programs.

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## 2. BACKGROUND AND REGULATORY OVERVIEW

In general Regulation X is the Real Estate Settlement Procedures Act (“RESPA”) and covers the disclosure of a Good Faith Estimate (“GFE”), whereas Regulation Z is for Truth in Lending Act (“TILA”) and covers the disclosure of a Truth-in-Lending form (“TIL”).

Both Regulation X & Regulation Z allow for exemptions to compliance under certain circumstances, specifically loans for a Business Purpose:

§ 1026.3 – Exempt transactions.

The following transactions are not subject to this part or, if the exemption is limited to specified provisions of this part, are not subject to those provisions:

- a. Business, commercial, agricultural, or organizational credit.
  1. An extension of credit primarily for a business, commercial or agricultural purpose.

For consistency, Regulation X adopts the definition of “Business Purpose” via Regulation Z:

§ 1024.5 – Coverage of RESPA.

b. BUSINESS PURPOSE LOANS.

An extension of credit primarily for a business, commercial, or agricultural purpose, as defined by 12 CFR 1026.3(a)(1) of Regulation Z. Persons may rely on Regulation Z in determining whether the exemption applies.

To date, CSC has interpreted “Business Purpose” as found in the Official Interpretations to §1026.3(a):

OFFICIAL INTERPRETATION TO §1026.3(a)

3. FACTORS.

In determining whether credit to finance an acquisition—such as securities, antiques, or art—is primarily for business or commercial purposes (as opposed to a consumer purpose), the following factors should be considered:

- i. GENERAL.
  - A. The relationship of the borrower's primary occupation to the acquisition. The more closely related, the more likely it is to be business purpose.
  - B. The degree to which the borrower will personally manage the acquisition. The more personal involvement there is, the more likely it is to be business purpose.
  - C. The ratio of income from the acquisition to the total income of the borrower. The higher the ratio, the more likely it is to be business purpose.
  - D. The size of the transaction. The larger the transaction, the more likely it is to be business purpose.
  - E. The borrower's statement of purpose for the loan.

However, the preceding Official Interpretation has been supplemented further, marking a change in stance for the direct discussion of an investment property:

**OFFICIAL INTERPRETATION TO §1026.3(a)**

**4. NON-OWNER-OCCUPIED RENTAL PROPERTY.**

Credit extended to acquire, improve, or maintain rental property (regardless of the number of housing units) that is not owner-occupied is deemed to be for business purposes. This includes, for example, the acquisition of a warehouse that will be leased or a single-family house that will be rented to another person to live in. If the owner expects to occupy the property for more than 14 days during the coming year, the property cannot be considered non-owner-occupied and this special rule will not apply. For example, a beach house that the owner will occupy for a month in the coming summer and rent out the rest of the year is owner occupied and is not governed by this special rule. (See comment 3(a)-5, however, for rules relating to owner-occupied rental property.)

Even so, both Regulation X and Regulation Z are clear not to overstep State laws for disclosure. As reference:

**§1024. 5 – Coverage of RESPA.**

**c. Relation to State laws.**

1. State laws that are inconsistent with RESPA or this part are preempted to the extent of the inconsistency. However, RESPA and these regulations do not annul, alter, affect, or exempt any person subject to their provisions from complying with the laws of any State with respect to settlement practices, except to the extent of the inconsistency.

**OFFICIAL INTERPRETATION TO 5(c)(1)**

**Paragraph 5(c)(1).**

State laws that are inconsistent with the requirements of RESPA or Regulation X may be preempted by RESPA or Regulation X. State laws that give greater protection to consumers are not inconsistent with and are not preempted by RESPA or Regulation X. In addition, nothing in RESPA or Regulation X should be construed to preempt the entire field of regulation of the practices covered by RESPA or Regulation X, including the regulations in Subpart C with respect to mortgage servicers or mortgage servicing.

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### 3. PROGRAMS

Citadel Servicing Corporation has two programs available for transactions with occupancies that will be Non-Owner Occupied: (i) Non-Prime; and (ii) Outside Dodd-Frank. However, CSC will further treat certain circumstances differently for the purpose of managing risk and pricing as addressed below.

In all events, CSC relies upon the NMLS and State Regulators to provide some background diligence as considered in CSC's Know Your Customer counter-party reviews. CSC has therefore taken the stance that an MLO, Broker, and / or Lender / Seller will need to be appropriately licensed through the NMLS and State Regulator, where appropriate, without consideration to an exemption thereto. Each counter-party, as consistent with CSC's current policies and procedures in connection to Vendor Management, should have completed CSC's internal approval process in advance of submitting a loan file to CSC.

Further, each of CSC's programs (inclusive of the Business Exemption loan) (a) require loans to have impounds; (b) require loans to be originated without a prepayment penalty (in the event a prepayment penalty is on a file being purchased via Correspondent Channel, CSC will not enforce or pay additional premium for said prepayment penalty, nor will the Early Payoff protection for the Correspondent Seller be reduced as a result of the prepayment penalty's inclusion); (c) loans shall have a loan term of 30-years that can be (i) either fully amortized or have an interest only term and (ii) be a Fixed Mortgage or hybrid-ARM with a 3, 5, or 7-year initial fixed term; and (d) loans must be purchased Servicing Released.

CSC's three categories for Non-Owner Occupied ("NOO") properties are:

#### **I. NON-PRIME PROGRAM:**

CSC Non-Prime Program will retain its treatment of a NOO insofar as treatment as a consumer loan with regard to calculating DTI, issuing disclosures, fee tolerances thereto, follow requisite disclosure timelines, etcetera.

#### **II. OUTSIDE DODD-FRANK (DSCR+):**

CSC's ODF Program whereas the DSCR is calculated to be 1.0 or greater will be disclosed, held to tolerances thereto, follow timelines, etcetera. However, it is a Business Purpose loan and therefore the income being used to calculate a DTI can be declared and supporting documentation will not need to be present in CSC's loan file.

A subject property that does not calculate its DSCR to be 1.0 or greater can qualify in this program subset if consideration is taken to the Borrower's full Schedule of REO resulting in a calculated DSCR to be 1.0 or greater in whole.

As a final option, asset depletion can continue to supplement the REOs to cover a calculated shortfall and be consistent with this Section 3 II.

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### **III. OUTSIDE DODD-FRANK (BUSINESS PURPOSE):**

CSC ODF Program may be considered a “Business Purpose” loan and will have special handling different than treatment under Sections 3 I & II above.

To be considered in this Section 3 III, a loan against a non-owner occupied investment must be used to “(i) acquired, (ii) improve, or (iii) maintain” said property. As the exemption relies on one of these three points, it should clearly be documented for the loan file. Specifically, a refinance loan transaction with cash out should primarily (read: more than half of the proceeds after lien payoff and closing costs) be for operating capital to the property and not simply cash-in-hand without regard. Documentation may come in the form of, but is not exclusively held to, contracts, purchase orders, maintenance agreements, etcetera.

Loans that are for a rate-and-term refinance to (as an incomplete list of examples) reduce the interest rate, move to a fixed rate product, or payoff a pending balloon lien are not considered Business Purpose as defined above and not available under this Section 3 III.

A proposed loan in this Section 3 III, will (a) have a \$100k minimum loan amount; (b) not be issued a Loan Estimate or Closing Disclosure, (c) not be issued an upfront GFE or initial TIL; (d) be non-owner occupied specifically, despite language in the Official Interpretation about use as a second home if occupied by the owner for fourteen (14) or less days annually; (e) be limited to 70% maximum LTV / CLTV for both Purchase & Refinance transactions; and (f) must follow any state overlays to the exemption if allowable.

Further under this Section 3 III, a loan need not comply with Regulation Z’s ATR rule, whereas it is acceptable for a subject to have a negative DSCR (i.e.: less than 1.0). CSC will require an application include a declared income by the Borrower and underwriting will calculate a DTI based on such declaration without documentation to substantiate the income or any employment (self or wage) thereto. CSC’s maximum DTI will remain at 50%.

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Note that submission as a DSCR loan under Section 3 II above will produce Disclosures and a Business Purpose loan under Section 3 III will not produce Disclosures. Despite this different practice in the providing of Disclosures, a file can swap from DSCR to Business Purpose, but not alternately, given the CFPB Official Interpretations address the scenario specifically that Business Purpose loans can be disclosed upon, without preempting the exemption status:

**OFFICIAL INTERPRETATION TO 3(a)**

**3(a) Business, Commercial, Agricultural, or Organizational Credit**

**1. PRIMARY PURPOSES.**

A creditor must determine in each case if the transaction is primarily for an exempt purpose. If some question exists as to the primary purpose for a credit extension, the creditor is, of course, free to make the disclosures, and the fact that disclosures are made under such circumstances is not controlling on the question of whether the transaction was exempt. (See comment 3(a)-2, however, with respect to credit cards.)


However, any loan that has received disclosures, even those under Section 3 III should conform to the appropriate terms of those disclosures and be done correctly.



## 4. PRICING MATRIX

Update to the Pricing Matrix:

- (1) General Information Table, Loan Documentation Section, add “NOO Business Purpose (70% Max LTV / CLTV)” and
- (2) Adjustments Table, new line item “NOO Business Purpose” with 0.25 adjustment to rate and Note “Must document loan is to acquire, improve, or maintain subject” property.



**"OUTSIDE OF DODD-FRANK" - ODF™**  
**WHOLESALE RESIDENTIAL RATE SHEET & MATRIX**

7/1 Hybrid ARM		
LTV	Rate	Points
50%	6.999%	PAR
60%	7.250%	PAR
65%	7.500%	PAR
70%	7.750%	PAR
75%	7.999%	PAR

THE MISSION OF THIS PROGRAM IS TO PROVIDE FINANCING FOR LOANS THAT ARE NOT COVERED UNDER THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT AND ARE SPECIFICALLY EXCLUDED OR EXEMPT FROM THE APPLICATION OF ABILITY TO REPAY REGULATION.  
EXAMPLES OF LOANS INCLUDE FOREIGN NATIONAL, BUSINESS USE, & NON-OWNER OCCUPIED LOANS.

**GENERAL INFORMATION**

States: AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, ID, IL, IN, KS, KY, LA, MD, ME, MI, MN, MT, NC, NE, NH, NJ, NV, OK, OR, PA, SC, TN, TX, UT, VA, VT, WA, WI, & WY

**Property Types**  
SFR / Condos / Townhouse / 2-4 Units

**Occupancy**  
Owner - User / Second Home / Non Owner  
Documented ATR may be applicable under certain scenarios

**Loan Terms**  
30 Year Amortization & Term - 7/1 Hybrid ARM

**Index & Adjustment Caps**  
Floored at Start Rate / 1-Year CMT / 6.950% Margin  
2.0% Initial Change Cap / 2.0% Annual Cap / 6.0% Life Cap

**Loan Amounts**  
\$100,000 - \$2M (Round Down Loan Amount to \$50 increments)  
Loan Amounts >\$1,000,000 require Senior Management Approval  
Loan Amounts >\$1,000,000 require 600 Minimum FICO  
Loan Amounts >\$1,000,000 require an Appraisal & BPO  
Loan Amounts >\$1,500,000 require two Appraisals  
Appraisal &/or BPO from CSC AMC or are considered case-by-case

**Loan Documentation**  
Stated Income / Verified Assets (If Applicable)\*\*  
 \*\* NOO Business Purpose (70% Max LTV / CLTV)  
 \*\* Foreign National - Funds to Close Must Be Verified in U.S. Dollars with Valid Banking Relationship in Country of Origin  
 Foreign National cash out ≥ 65% Case-by-Case basis  
 Foreign National Loan Amt. >\$1,000,000 considered for NOO only  
 Impounds for Taxes / Insurance Required  
 Max CLTV 75%

**ADJUSTMENTS**

Description	Rate	Fee*	Note
Business Loan	0.250%	--	Net Funds Must Be Delivered To the Business Entity or Acquisition
NOO Business	0.250%	--	Must document loan is to acquire, improve, or maintain subject
Cross Collateral	0.250%	--	Supplemental Property May Be Secured in 2nd Position with Appvl
Fix & Flip	0.375%	--	Borrower Must Provide Funds for All Repairs
>\$1,000,000	0.250%	--	LTV @ -5% Purch & R/T, -10% C/O
Condo SF & So. FL	0.000%	--	Max LTV/CLTV 70% Condos in San Francisco and Broward/Dade co. FL
Interest Only	0.125%	--	Loan Amount ≥\$250,000
2-4 Unit Property	0.250%	--	
Rural Property	Quote	Quote	Case-By-Case Basis & Subject to Individual Pricing

Refinance of Property Listed for Sale within last:

	Rate	Fee*
0 - 3 Months	0.000%	1.000
4 - 6 Months	0.000%	0.500

Adjustment by US Credit Score			Max LTV	
Mid Score	Rate	Fee*	Purch	Refi
≥600	0.000%	0.000	75%	70%
550-599	0.250%	0.250	70%	65%
500-549	0.500%	0.500	65%	65%
≤499	Case-by-Case		65%	60%

Adjustment to Foreign Nationals		
LTV	Rate	Fee*
≤ 70%	0.375%	--
≤ 65%	0.125%	--

Administration / Underwriting / Commitment Fee to CSC	
\$1,295	

**NO FEDERAL OR STATE HIGH COST LOANS**

\*CSC Caps CSC Points plus Fee Adjustment(s) at 2.0% Max (Except Rural Adjustment)

CSC Points & Fees and Broker Points & Fees may not exceed 6.0%

**CONTACT YOUR ACCOUNT EXECUTIVE FOR DETAILS ABOUT CSC'S NON-PRIME PRODUCT**

For mortgage professionals only. This information is intended for the exclusive use of licensed real estate and mortgage lending professionals in accordance with local laws and regulations.  
Distribution to the general public is prohibited.  
Rates and programs are subject to change without notice.  
National Mortgage Licensing System and Registry ID 144549

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## 5. ODF GUIDELINES

Update to the ODF Underwriting Guideline Book:

Add new Section between existing Section 2 & 3 (“Business Purpose” and “Foreign National” respectively).

### **SECTION 3 – NON-OWNER BUSINESS PURPOSE**

#### **3.1: Business Purpose Exemption:**

Consistent with Reg X & Reg Z’s Official Interpretation to §1026.3(a) where an exemption exists for, among other items, compliance to ATR under certain circumstances. A loan coincides with said exemption when it is against a non-owner occupied investment used to “(i) acquire, (ii) improve, or (iii) maintain” said property. As the exemption relies on one of these three points, it should clearly be documented for the loan file. Specifically, a refinance loan transaction with cash out should primarily (read: more than half of the proceeds after lien payoff and closing costs) be for operating capital to the property and not simply cash-in-hand without regard. Documentation may come in the form of, but is not exclusively held to, contracts, purchase orders, maintenance agreements, etcetera.

Loans that are for a rate-and-term refinance to (as an incomplete list of examples) reduce the interest rate, move to a fixed rate product, or payoff a pending balloon lien are not considered Business Purpose as defined above and not available under this Section 3 III.

#### **3.2: Program Highlights:**

A loan in this Section 3 will:

- (a) have a \$100k minimum loan amount;
- (b) not be issued a Loan Estimate or Closing Disclosure,
- (c) not be issued an upfront GFE or initial TIL;
- (d) be non-owner occupied specifically, despite language in the Official Interpretation about use as a second home if occupied by the owner for fourteen (14) or less days annually;
- (e) be limited to 70% maximum LTV / CLTV for both Purchase & Refinance transactions; and
- (f) must follow any state overlays to the exemption if allowable.

Further under this Section 3, a loan need not comply with Regulation Z’s ATR rule, whereas it is acceptable for a subject to have a negative DSCR (i.e.: less than 1.0). CSC will require an application include a declared income by the Borrower and underwriting will calculate a DTI based on such declaration without documentation to substantiate the income or any employment (self or wage) thereto. CSC’s maximum DTI will remain at 50%.

Subject vacancy or tenant occupancy will not be a factor in this program.

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In the event there is a conflict between the ODF Guidelines and ODF Matrix, the Matrix will prevail.

### **3.3: Treatment of Disclosed Loans:**

Note that submission as a DSCR loan under Section [5] will produce Disclosures and a Business Purpose loan under Section 3 will not produce Disclosures. Despite this different practice in the providing of Disclosures, a file can swap from DSCR to Business Purpose, but not alternately, given the CFPB Official Interpretation to 3(a) addresses the scenario specifically that Business Purpose loans can be disclosed upon, without preempting the exemption status and “is not controlling on the question of whether the transaction was exempt.”

However, any loan that has received disclosures, even those under Section 3 should conform to the appropriate terms of those disclosures and be done correctly.

### **3.4: Required Documentation:**

CSC will consider mortgage loans on a purchase or refinance basis secured by a NOO 1-4 Unit property analyzing the proposed loan transaction as a whole provided that:

- (a) The Borrower states income reasonable at the sole discretion of CSC;
- (b) The Appraiser provides a Rental Survey (Form 1007) delineating a dollar amount at which the unit or property might be rented;
- (c) The Borrower(s) provide a handwritten statement of purpose for the loan; and
- (d) A non-owner occupied investment must be used to “(i) acquire, (ii) improve, or (iii) maintain” said property:
  - Whereas the transaction is a purchase to “acquire” the subject, no additional documentation is required beyond the customary Purchase Agreement; or
  - Whereas the transaction is to “improve” or “maintain” the subject property, CSC should document a list of improvement or maintenance project(s) with their estimated costs as considered by a licensed contractor or tradesman relevant to the project(s). The Underwriter should consider if the cash-in-hand via the transaction is sufficient to complete the project(s) or document supplementary funds.

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## 6. DEFINITIONS

Ability-to-Repay (“ATR”): An eight-point test as provided under §1026.43(c)(2) for measuring and determining of a mortgagor’s reasonably expected ability to repay a mortgage according to its terms as documented by third-party records.

Business Purpose Loan(s): Loans made that are exempt to Regulation X and / or Regulation Z as defined in the CFPB’s Official Interpretation(s) thereto.

CFPB: The Consumer Financial Protection Bureau or any successor thereto.

Debt Service Coverage Ratio (“DSCR”): The ratio of current or anticipated market rents compared to the monthly debt obligations for an investment property (rent divided by PITIA payments).

Disclosures: Documents required to be provided to a mortgagor under Regulation X and Regulation Z including but not limited to a Closing Disclosure, Good Faith Estimate, Loan Estimate, or Truth-in-Lending form.

Official Interpretation: Supplemental commentary published by the CFPB provided to add clarification and explanation to specific provisions and subsections of to a denoted or referenced Act.

Regulation X: Real Estate Settlement Procedures Act (“RESPA”) of 1974, as amended, 12 CFR, Part 1024.

Regulation Z: Truth in Lending Act (“TILA”), as amended, 12 CFR, Part 1026.

SAFE Act: The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 enacted on July 30, 2008, and mandates a nationwide licensing and registration system for residential mortgage loan originators (MLOs).