



## WAIVER OF COLLATERAL DELIVERY GUIDELINES FOR CREDIT UNIONS

The purpose of this guideline is to outline the requirements that must be met by Credit Union members in order to be considered for a waiver of delivery approval for 1-4 family mortgage collateral. Members interested in pursuing the waiver should contact their Calling Officer who will coordinate the process.

**BACKGROUND:** The Federal Home Loan Bank of New York's ('FHLBNY') Credit Policy requires the delivery of all collateral types pledged by Credit Union members. Credit Unions have several sources of liquidity in addition to the FHLBNY. These include their corporate central credit facility and the NCUA. Standard terms of the lending agreements from these two creditors include a blanket lien against all of the Credit Union's assets, similar to the blanket lien stipulated within the FHLBNY's Advances, Security and Collateral Pledge Agreement (Advances Agreement). This results in the potential for "dueling" blanket liens. Therefore, the FHLBNY's credit risk practices include the assignment of the Possession collateral category for all Credit Union members.

However, on a case-by-case basis, delivery may be waived if the Credit Union can, on a regular basis, demonstrate that there are no other blanket liens on its assets (from the NCUA, or from its corporate central credit facility).

### REQUIREMENTS FOR WAIVER OF DELIVERY

#### Considerations for approval:

- Waiver of delivery will be limited to Credit Unions that report their financials quarterly to their regulator.
- Waiver of delivery will apply only to the first lien, 1-4 family mortgage collateral types.
- Collateral reporting for waived collateral will remain monthly with assignment to the Listing Only collateral category. The Credit Union must provide a satisfactory automated loan level data format.
- The Credit Union must meet the financial condition guidelines for assignment to the Listing Only collateral category. This is determined by an FHLBNY credit analysis based on the Credit Union's most recent Call Report.
- The FHLBNY's blanket lien must be perfectible in first position through a UCC financing statement filed under Revised Article 9.
- Waiver of delivery will be considered on a case-by-case basis if perfection of interest, via the UCC filing, can only be achieved for specifically listed collateral. If approved, the Credit Union will be managed as if no blanket lien exists.
- Execution of additional required documentation to support the FHLBNY's interest in the listed collateral. (Refer to Documentation Requirements section of this guideline.)
- The Credit Union must have no current, critical document or loan administration deficiencies noted in and unresolved from the most recent on-site report.

**Documentation Requirements for waiver of delivery:**

- Submit written request on letterhead and provide a general description of the collateral for which waiver of delivery will be requested.
- Deliver copies of any extensions of credit agreements with other creditors.
- Execution by all parties of subsequent documentation, such as subordination agreements or letters of understanding from other creditors, allowing perfection of the FHLBNY's interest in the pledged assets. Templates of required documentation will be provided once the formal written request and required disclosures are received. Customization changes to these templates are typically required.
- Amendments to current UCC financing statement filings may be requested as needed to secure FHLBNY's perfection and lien priority status.

**Once approved for waiver of delivery:**

- The FHLBNY will forward an approval letter containing specific collateral reporting instructions and frequencies.
- The Credit Union will provide a periodic statement certifying that all collateral listed is still in their possession and that they have not entered into any new lending agreements with other creditors.
- The Credit Union must immediately disclose entering into a new lending agreement with another creditor that has not been previously disclosed to the FHLBNY, and deliver a copy of that lending agreement to the FHLBNY.
- Terms of other lending agreements executed after waiver of delivery has been extended may result in a re-assignment of collateral category to possession.
- Collateral reporting for Credit Unions with waiver approval but perfection in **only specifically listed collateral** will be managed as follows: If the position becomes short due to an inadequate listing, the shortage must be resolved immediately upon notification by the FHLBNY to the Credit Union of such shortage.
- When (mortgage) collateral is pledged to other creditors the Credit Union must provide a monthly listing of collateral pledged elsewhere to ensure no duplicate pledging has occurred.