

Date: March 30, 2020

To: All Agents

From: Underwriting Department

RE: Supplement to Bulletin 2020-2

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**This supplemental bulletin may be distributed to Lenders.**

We have been informed that the Harris County, Texas Clerk's office is experiencing delays in e-recordings due to the increased demand. No specific time line has been provided with respect to when standard recording operations will resume.

Fannie Mae recently sent a bulletin to lenders setting forth Fannie Mae secondary market requirements and many lenders require compliance with the requirements in order to close and fund the proposed transaction in counties where recording is delayed.

[FNTI Bulletin 2020-2](#) and [FNTI Bulletin 2020-2.1](#) fully address these issues and this supplement is intended to provide additional clarity and assist you in addressing the lender requirements.

Below are the three primary lender requirements and the FNTI response for addressing the requirements related to any significant delays in recording capabilities or complete closure of **any** county clerk office:

**Lender Requirement #1**

Title insurance gap coverage must be effective from the date of consummation (date the note is signed) to the date of recording. Gap coverage that does not take effect until the date of recording will not be accepted. We will require alternate title coverage be provided, if needed to allow the loan to close.

**FNTI Response:** FNTI will provide Gap Coverage on Loan Policies for the entire time period from the certification date of the agent's abstract plant, shown as the effective date on the Commitment, through the date the documents are recorded. This covers the gap period from the abstract plant certification date through closing and the gap period from closing through recordation.

You can provide the lender the language contained in "Covered Risk 14." on the Loan Policy of Title Insurance which meets the above referenced requirement.

This Underwriting Bulletin becomes a part of the principles and practices with which you are to comply under the terms of your Underwriting Agreement with First National Title Insurance Company. Should the content of this bulletin address the closing and escrow function, this information should be considered a directive and part of the principles and practices if non-compliance would result in liability to FNTI under either the insured closing service letter or policy of title insurance notwithstanding that the Underwriting Agreement does not include the closing and escrow functions of your agency.

**“14. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 13 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the Insured Mortgage in the Public Records”**

Additionally, per FNTI Bulletin 2020-2, FNTI has agreed to insure on title evidence that is current no more than 30 days prior to the closing date. This relates to the abstract plant certification date.

### **Lender Requirement #2**

There can be no exceptions to coverage in Schedule B pertaining to Covid-19, or the county recorder closing/delay. If the commitment includes an exception requiring the lender to sign an indemnification agreement, an updated title commitment or other document evidencing that this has been satisfied will be required.

**FNTI Response: FNTI was not requiring any type of exception on title policies, but did have a Notice for insertion in Schedule C (Texas) and Schedule B-1, ALTA). FNTI has completely waived this Notice requirement.**

Per FNTI Bulletin 2020-2.1, we have removed the requirement to include the previously required “Covid-19” Notice. Currently FNTI has no requirement to include Covid-19 related exceptions for delayed recordings in your commitment.

### **Lender Requirement #3**

Lender will not sign any indemnification agreement requested by the title agent or title insurance underwriter

**FNTI Response: FNTI has no requirement for any form of indemnification from Lenders.**

FNTI **will not** require the Lender to sign an indemnification related to delayed recordings. The *“Acknowledgment of Escrow Closing/Delayed Recording of Documents”* document has been revised to make clear that the Lender is excluded from any obligation to indemnify FNTI. Indemnification language continues to exist only for the Seller and Purchaser/Borrower. The revised *“Acknowledgment of Escrow Closing/Delayed Recording of Documents”* can be found [here](#).

In the event that a lender declines to sign the acknowledgment, revised closing instructions from the lender can be obtained specifically acknowledging delayed recording and authorizing the proposed transaction to close and fund, holding in escrow the recordable instruments until such time as recordation is available, and the delayed issuance of the Loan Policy with Gap Coverage, to replace the form acknowledgment.

You should continue to require and obtain an executed [\*“Nothing Further Affidavit and Indemnity”\*](#) from the Seller and Purchaser/Borrower.

**\*Please Note: If you are closing in a county that is experiencing no delays in recording, you do not need to obtain the *“Acknowledgment of Escrow Closing/Delayed Recording of Documents”* or the *“Nothing Further Affidavit and Indemnity”*.**

FNTI is committed to partnering with and assisting our agents in continuing to transact business in this unprecedented environment. Should you have any questions, comments, or concerns regarding this bulletin or any other business practice during this time, please do not hesitate to contact any one of us here at FNTI.

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