

# Multifamily Seller/Servicer Guide

## Chapter 17

### Originating a Mortgage under the Multifamily

### Conventional Cash Mortgage Purchase Program

#### 17.1 Overview

##### a. Program and related products (06/27/19)

This chapter provides an in-depth discussion of the requirements for originating a Mortgage under the Multifamily Conventional Cash Mortgage Purchase Program.

##### 1. Cash Mortgages

Chapter 17 provides a framework for the requirements of related products under the Multifamily Conventional Cash Mortgage Purchase Program. Product specific requirements for related products are discussed in the following chapters and sections:

- Moderate Rehabilitation (Mod Rehab) Mortgages – Section 17.4(a)
- Small Balance Loan (SBL) Mortgages – Chapter 18SBL
- Targeted Affordable Housing (TAH) Cash Mortgages – Chapter 19
- Forward Commitment TAH Cash Mortgages – Chapter 19A
- Supplemental Mortgages – Chapter 20
- Seniors Housing Mortgages – Chapter 21
- Manufactured Housing Community (MHC) Mortgages – Chapter 22

With respect to the origination of cash Mortgages with certain affordability components, Conventional Seller/Servicers may originate and sell the following subject to certain conditions:

- Mortgages with Low Income Housing Tax Credits (LIHTC) after year 15 of the initial compliance period
- Mortgages with Section 8 HAP contracts
- Mortgages with Section 8 vouchers
- Mortgages with tax abatements

Conventional Seller/Servicers should contact their Freddie Mac representative for additional information. For a chart outlining Conventional Seller/Servicer and TAH

Seller/Servicer eligibility for originating and selling Mortgages with certain affordability components, see Exhibit 2: Origination Guidelines for Targeted Affordable Housing Mortgages.

## 2. Bond Credit Enhancement Mortgages

Requirements for originating a Mortgage under the Targeted Affordable Housing Bond Credit Enhancement Program are discussed in the following chapters:

- TAH Bond Credit Enhancement Mortgages – Chapter 28
- Forward Commitment TAH Bond Credit Enhancement Mortgages – Chapter 28A

## 3. Tax-Exempt Loans

Requirements for originating a Mortgage under the Tax-Exempt Loan Program are discussed in the following chapters:

- Tax-Exempt Loans – Chapter 25
- Forward Commitment Tax-Exempt Loans – Chapter 25A

### **b. Investment quality (04/30/13)**

Each Mortgage to be delivered to Freddie Mac under the Multifamily Conventional Cash Mortgage Purchase Program must have characteristics that demonstrate investment quality (see Section 10.7).

### **c. Types of Mortgages (05/05/17)**

Under the Multifamily Conventional Cash Mortgage Purchase Program, Freddie Mac may purchase any or all of the following types of Mortgages:

- Fixed-rate Mortgages (see Section 17.2) in which the interest rate is unchanged for the entire Mortgage term. Fixed-rate Mortgages may be amortizing or interest-only.
- Floating rate Mortgages in which the interest rate is adjusted for the entire Mortgage term. A floating rate Mortgage may be amortizing or interest-only.
- Fixed to floating rate Mortgages in which the interest rate is fixed for a set term and is adjustable during an extension term of one year at the end of the term of the Mortgage.
- Other types of Mortgages as announced by Freddie Mac from time to time.

### **d. Securitization of Mortgages (03/03/14)**

Freddie Mac intends to securitize certain Mortgages by selling them in the capital markets. At the time of a Securitization of a Mortgage, Freddie Mac will cease to own the applicable Mortgage and Servicing of the applicable Mortgage will be terminated upon such

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Securitization and transferred to a master servicer without compensation to the Freddie Mac Servicer. The Freddie Mac Servicer must assist in the transfer of Servicing to the master servicer by timely delivering to the master servicer all materials required by Section 42.7.

The Seller/Servicer agrees that if Freddie Mac decides to securitize or sell the Mortgage, Seller/Servicer will (a) permit Freddie Mac or its representatives to provide related information to the Rating Agencies and/or investors, and (b) cooperate with the reasonable requests of the Rating Agencies and/or investors in connection with a Securitization of the Mortgage.

**e. Delivery options (09/08/04)**

Freddie Mac offers both a standard delivery option (see Section 17.6 and Sections 17.8 through 17.14) and an early rate-lock delivery option (see Section 17.7 and Sections 17.15 through 17.27).

**f. Minimum Origination Fee (06/25/20)**

A Seller must charge a Minimum Origination Fee in connection with the origination and sale of a Mortgage to Freddie Mac as follows:

Program/Product	Minimum Origination Fee
Non-SBL Mortgages < \$7.5M	1.00% of the UPB
Non-SBL Mortgages ≥ \$7.5M and < \$20M	Greater of 0.75% of the UPB or \$75,000
Non-SBL Mortgages ≥ \$20M and < \$50M	Greater of 0.50% of the UPB or \$150,000
Non-SBL Mortgages ≥ \$50M	Greater of 0.25% of the UPB or \$250,000

The Seller may satisfy the requirement for a Minimum Origination Fee with any combination of an origination fee and a premium buy-up. Buy-ups collected at no cost to the Borrower due to qualified loan characteristics cannot be included to meet the required Minimum Origination Fee. The Minimum Origination Fee must be collected by the Seller and cannot be used to reimburse closing costs.

**g. Other requirements (04/30/13)**

All Mortgages submitted for purchase under the Multifamily Conventional Cash Mortgage Purchase Program must comply with the requirements of Chapters 8, 9 and 10 as well as with the requirements of this chapter.

**17.2 Fixed-rate Mortgage requirements (09/08/04)**

A fixed-rate Mortgage submitted under the Multifamily Conventional Cash Mortgage Purchase Program must meet the requirements listed in this section. A fixed-rate Mortgage may be amortizing or may have an interest-only feature. For interest-only Mortgages, all other requirements of an amortizing Mortgage will apply unless specifically noted in this section.

**a. Document delivery (05/01/14)**

The underwriting checklists, the Final Delivery Tables of Contents and the Final Delivery Instructions, found on FreddieMac.com, set forth all documents required to be delivered to Freddie Mac under this program. The Seller must make timely deliveries in accordance with the requirements of this chapter and Chapter 32.

**b. Eligible Mortgages, including Value-Add Mortgages and Moderate Rehabilitation Mortgages (05/05/17)**

Mortgages for the purpose of the refinancing or acquisition of the Property are eligible for purchase.

Freddie Mac will consider purchasing Value-Add Mortgages where the Borrower expects to add value through renovations shortly after loan closing. For additional information, contact the Applicable Freddie Mac Multifamily Regional Office that serves the region where the Property is located.

Freddie Mac may also consider purchasing Moderate Rehabilitation Mortgages, where the Borrower will be making renovations to the Property beyond the Value-Add levels and needs the ability to draw funds as the renovations are completed rather than having the entire loan funded on the Origination Date, subject to additional conditions. For additional information, contact the Applicable Freddie Mac Multifamily Regional Office that serves the region where the Property is located.

For Mortgages secured by MHC Properties, the requirements of Section 22.3(a) apply rather than the requirements of this Section 17.2(b).

**c. Term (06/29/17)**

The term of the Mortgage may be from five to 30 years.

**d. Amortization (05/11/10)**

For amortizing Mortgages, the standard amortization period is 30 years.

The minimum amortization period for amortizing Mortgages is 15 years.

Notwithstanding the above, Freddie Mac, in its discretion, will determine the amortization period of the Mortgage.

**e. Interest-only (05/11/10)**

Interest-only debt service payments are available for up to ten years. Combinations of interest-only and principal and interest periods are available.

**f. Prepayment provisions (03/03/14)**

1. Prepayment provisions for a Mortgage with a Note that provides for defeasance which is not made a part of a Securitization prior to the Cut-Off Date (defined in the Note)
  - The Borrower may prepay the Mortgage on any scheduled payment date, subject to compliance with all prepayment terms set forth in the Note, including payment of the applicable prepayment premium. The Borrower may not make any partial prepayments except as set forth in the Loan Documents.
  - The 2-year lockout period and Defeasance Period will not apply and the Mortgage will be subject to the Yield Maintenance Period as set forth in the Note.
  - No prepayment premium is due during the Window Period as defined in the Note (usually the last 3 months of the term of the Mortgage).
2. Prepayment provisions for a Mortgage with a Note that provides for defeasance which is made part of a Securitization prior to the Cut-Off Date
  - If a Mortgage has a term of five or more years and is made a part of a Securitization prior to the Cut-Off Date, there is a 2-year lockout period during which prepayment will not be permitted, followed by a Defeasance Period, as defined in the Loan Documents. The Borrower may only defease the Mortgage in accordance with the requirements set forth in the Loan Documents. The Borrower may not make any partial prepayment during the Defeasance Period, except as set forth in the Loan Documents.
  - After the expiration of the Defeasance Period, no prepayment premium is due during the Window Period as defined in the Note (usually the last 3 months of the term of the Mortgage).
3. Prepayment provisions for a Mortgage with a Note that provides for yield maintenance only
  - The Borrower may prepay the Mortgage in full on any scheduled payment date, subject to compliance with all prepayment terms set forth in the Note, including payment of the applicable prepayment premium. The Borrower may not make any partial prepayments except as set forth in the Loan Documents.
  - No prepayment premium is due during the Window Period as defined in the Note (usually the last 3 months of the term of the Mortgage).

**g. Yield Maintenance Prepayment Premium (02/29/12)**

The standard Yield Maintenance Period will be as follows:

<b><u>Term of Mortgage</u></b>	<b><u>Yield Maintenance Period</u></b>
5 years	4¾ years

7 years	6½ years
10 years	9½ years
15 years	14½ years
20 years	15 years
25 years	15 years
30 years	15 years

The minimum prepayment premium due during the Yield Maintenance Period is one percent of the amount prepaid.

After the expiration of the Yield Maintenance Period, with any prepayment, the Borrower must pay a prepayment premium of one percent of the amount prepaid, with the exception of Mortgages with a five-year term for which there is not a one percent prepayment premium period at the expiration of the Yield Maintenance Period. No prepayment premium is due during the Window Period as defined in the Note (usually the last three months of the term of the Mortgage).

**h. Reserved**

**i. Reserved**

**j. Sales or transfers of Property or beneficial interests in the Borrower (09/08/04)**

The Mortgage will permit Transfer of Ownership to a qualified purchaser on terms approved by Freddie Mac, in accordance with the terms of the Mortgage.

**k. Vacancy/collection loss (09/08/04)**

The vacancy and collection loss rate used in underwriting may not be less than 5 percent and must be adjusted upward if property and/or market conditions require.

**l. Borrower recourse/third-party guaranties (02/29/12)**

Freddie Mac typically will not require Borrower recourse, except upon the occurrence of certain events specified in the Note executed by the Borrower. However, Freddie Mac, in its discretion, may require additional Borrower recourse.

See Section 10.2(b) in the event Freddie Mac requires one or more of the Borrower Principals, in the Borrower Principal's individual capacity, to guaranty the payment of all or a portion of the amounts due under the Mortgage.

**m. Servicing Spread (09/28/16)**

The Servicing Spread will be as follows:

Servicing Spread		
Original Principal Balance between		Servicing Spread in basis points
\$0	\$2,000,000	20.0
\$2,000,001	\$5,000,000	16.0
\$5,000,001	\$10,000,000	14.0
\$10,000,001	\$15,000,000	12.0
\$15,000,001	\$20,000,000	10.5
\$20,000,001	\$25,000,000	9.5
\$25,000,001	\$30,000,000	9.0
\$30,000,001	\$40,000,000	8.0
\$40,000,001	\$60,000,000	7.5
\$60,000,001 and above		7.0

**n. Reserves (10/31/12)**

Pursuant to Section 39.2, the Seller must establish Reserves for taxes, water and sewer charges, ground rents and other charges and assessments, if applicable, and insurance meeting the requirements of the Purchase and Servicing Documents. If required by Freddie Mac, the Seller must establish a Replacement Reserve and/or a Repair Reserve, in accordance with Section 39.3.

**o. Co-op requirements (09/08/04)**

Freddie Mac may adjust the program requirements in this section on a case-by-case basis for Mortgages secured by properties owned by cooperative housing corporations.

**p. Financing of origination fees (09/08/04)**

It is Freddie Mac's policy not to purchase Mortgages that finance payment of loan origination fees or comparable fees to the Seller in excess of reasonable amounts. The proceeds of the Mortgage may be used to pay loan origination fees or comparable fees to the Seller only to the extent that such fees are reasonable and in accordance with general industry standards.

**q. Late charges and default interest (04/30/13)**

The fixed-rate Note must provide that if an installment of principal (if applicable) and interest is received more than 10 days after its Due Date, a late charge will accrue equal to 5 percent of the amount of that installment. If applicable law prohibits imposition of a late charge until an installment is more than 10 days past due or provides for a maximum late charge of less than 5 percent, the Seller must use the minimum time period and the maximum late charge permitted by applicable law. The Seller/Servicer may not change any provisions regarding late charges without Freddie Mac's prior approval. Freddie Mac reserves the right to waive any late charge, in its discretion.

The fixed-rate Note must also provide that if any installment due under the Note remains past due for 30 days or more, or if the Borrower is in default under any other provision of the Note or other Loan Documents, the Note will bear default interest at a rate that is not less than 4 percent per annum in excess of the Note rate. If applicable law provides for a maximum rate of default interest that is lower than 4 percent per annum in excess of the Note rate, the Seller must use the maximum rate of default interest permitted by applicable law.

### 17.3 Floating rate Mortgage requirements (05/05/17)

A floating rate Mortgage submitted under the Multifamily Conventional Cash Mortgage Purchase Program must meet the requirements of Section 17.2, as modified by this section.

#### a. Interest rate calculation (05/05/17)

Freddie Mac will calculate interest on a floating rate Mortgage on the basis of a 360-day year and the actual number of days in the period for which interest is being calculated. As interest on a floating rate Mortgage will accrue at a variable interest rate, there will not be a fixed annual debt service amount for the Mortgage.

#### b. Term (05/05/17)

The term of the floating rate Mortgage may be 5, 7 or 10 years.

#### c. Prohibition against prepayment (05/05/17)

The Borrower will be prohibited from voluntarily prepaying the floating rate Mortgage in whole or in part during the closed period, as set forth in Section 17.3(d), if the Borrower has chosen this prepayment premium option.

#### d. Prepayment premium (05/05/17)

Freddie Mac offers the following prepayment provisions that may be structured with the origination of a floating rate Mortgage:

- One year closed period followed by 1 percent thereafter,
- Declining yearly prepayment premium of 3 percent, 2 percent and 1 percent thereafter, or
- Declining yearly prepayment premium of 5 percent, 4 percent, 3 percent, 2 percent and 1 percent thereafter
- For 10-year capped floating rate Mortgages only, declining yearly prepayment premium of 7 percent, 6 percent, 5 percent, 4 percent, 3 percent, 2 percent and 1 percent thereafter

Based on the prepayment provision chosen above, starting in year 2, 4, 6 or 8, Freddie Mac will waive the 1 percent prepayment premium if the Borrower voluntarily prepays the floating rate Mortgage with the proceeds of a fixed-rate Mortgage that is the subject of a binding commitment for purchase between Freddie Mac and the Seller/Servicer.



No prepayment premium will be due during the Window Period as defined in the Note (usually the last three months of the term of the floating rate Mortgage).

- e. **Reserved (03/03/14)**
- f. **Late charges and default interest (05/05/17)**

The floating rate Mortgage Note must provide that if an installment of principal (if applicable) and interest is received more than five days after its Due Date, a late charge will accrue equal to 5 percent of the amount of that installment. If applicable law prohibits imposition of a late charge until an installment is more than five days past due or provides for a maximum late charge of less than 5 percent, the Seller must use the minimum time period and the maximum late charge permitted by applicable law.

The Seller/Servicer may not change any provisions regarding late charges without Freddie Mac's prior approval. Freddie Mac reserves the right to waive any late charge, in its discretion.

The floating rate Mortgage Note must also provide that if any installment due under the floating rate Mortgage Note remains past due for 30 days or more, or if the Borrower is in default under any other provision of the floating rate Mortgage Note or Loan Documents, the Note will bear default interest at a rate that is not less than 4 percent per annum in excess of the Note rate. If applicable law provides for a maximum rate of default interest that is lower than 4 percent per annum in excess of the floating rate Mortgage Note rate, the Seller must use the maximum rate of default interest permitted by applicable law.

## 17.4 Other related cash products

- a. **Moderate Rehabilitation (Mod Rehab) Mortgages (05/05/17)**

A Mod Rehab Mortgage is collateralized by a well-constructed Property that can benefit from a capital infusion by the Borrower to upgrade the Property and increase its value.

Each Mod Rehab Mortgage is made in two phases. The first phase ("Interim Phase") is structured to accommodate the proposed renovation work, while the second phase ("Permanent Phase") is structured using the requirements of a standard cash loan. The Interim Phase consists of the initial funding issued at Mortgage origination and renovation draws issued throughout the renovation period. The renovation period cannot extend beyond the Interim Phase, and is subject to the time limits set forth in the Disbursement Agreement. At the end of the Interim Phase, the loan (with an unpaid principal balance reflecting the aggregate of the initial funding and all subsequent draws) converts to the Permanent Phase.

A Mod Rehab Mortgage must use the standard delivery option. In addition to complying with all standard requirements under the Multifamily Conventional Cash Mortgage Purchase Program noted under this Chapter 17, the following sections detail further requirements applicable to Mod Rehab Mortgages:

- Exhibit 1, Section 1.1: Conventional Checklist
- Section 60.28: Appraisals for Moderate Rehabilitation (Mod Rehab) Mortgages
- Chapter 63: Construction Reports
- Section 39.9: Servicing Moderate Rehabilitation (Mod Rehab) Mortgages
- Section 55.2: Requirements for documents contained in the underwriting package

1. Timing of renovation completion

All units must be habitable no later than six months prior to Conversion to the Permanent Phase. Minor unit renovations such as installation of light fixtures can be ongoing.

All renovation work must be completed no later than three months prior to Conversion.

2. Timing of additional proceeds request

If additional proceeds are requested, the Seller/Servicer must provide notice within six months of Conversion to the Permanent Phase and must deliver a full underwriting package four months prior to Conversion. All renovation work must be completed no later than three months prior to Conversion.

The Seller/Servicer must prepare the full underwriting package following the requirements for a standard delivery found in Exhibit 1, Section 1.1: Conventional Checklist. However, the property condition report must comment on whether the renovation work is still ongoing or already completed, and incorporate the latest construction monitoring report or the post-construction analysis report, whichever is available. The construction reports are described in Chapter 63.

## 17.5 Underwriting package requirements and review period (05/05/17)

See the following for information regarding the content of underwriting packages:

- Section 17.10, Standard delivery – full underwriting package
- Section 17.15, Early rate-lock delivery option – preliminary underwriting package
- Section 17.19, Early rate-lock delivery option – full underwriting package

Instructions for preparing and delivering the underwriting packages and remitting any required fees to Freddie Mac are found in Chapter 55, Documentation and Deliveries. Chapter 55 also contains a complete description of Freddie Mac's requirements for each document in an underwriting package, including a description of the required content and whether the document must be certified.

The Seller should plan for a reasonable period for Freddie Mac to process and review the Loan Submission Template or underwriting package before receipt of the Quote, the early rate-lock application or the Letter of Commitment, as appropriate.

### **17.6 Standard delivery (03/03/14)**

The Mortgage terms, conditions and interest rate are fixed after receipt and approval of the full underwriting package. For detailed information about standard delivery, see Sections 17.8 through 17.14.

### **17.7 Early rate-lock delivery option (03/03/14)**

The minimum principal amount of a Mortgage with the early rate-lock delivery option is \$2.5 million. The Mortgage terms, conditions and interest rate are fixed after Freddie Mac's preliminary underwriting, but prior to receipt and approval of the full underwriting package. For detailed information about the early rate-lock delivery option, see Sections 17.15 through 17.27.

### **17.8 Standard delivery—Loan Submission Template (LST) (04/30/15)**

Sellers wishing to take advantage of Freddie Mac's standard delivery option must submit Freddie Mac's Loan Submission Template (LST) and supporting documents. The standard delivery option applies to the following Mortgages, including those with certain affordable housing characteristics, purchased under the Conventional Cash Mortgage Purchase:

- Conventional Mortgages
- Acquisition or Refinance Lease-Up Mortgages
- Standard refinance Mortgages
- Split Supplemental Mortgages (see Chapter 20)

### **17.9 Standard delivery—preliminary Quote (11/30/11)**

If the Mortgage presented in the Loan Submission Template and supporting documents appears to meet the requirements of the Multifamily Conventional Cash Mortgage Purchase Program, Freddie Mac will, at its option, issue a verbal or written Quote.

#### **a. Verbal Quote (11/30/11)**

Freddie Mac will advise the Seller orally that it is interested in receiving a full underwriting package and will quote the proposed maximum Mortgage amount, indication spread [as discussed in Section 17.9(c)], term, amortization period (if applicable) and prepayment terms. Freddie Mac also will quote any other requirements based on the information contained in the Loan Submission Template and supporting documents.

**b. Written Quote (11/30/11)**

Freddie Mac will advise the Seller in writing that Freddie Mac is interested in receiving a full underwriting package. The written Quote will contain the proposed maximum Mortgage amount, indication spread [as discussed in Section 17.9(c)], term, amortization period (if applicable) and prepayment terms as well as other Freddie Mac requirements based on the information contained in the Loan Submission Template and supporting documents.

**c. Indication spread (09/08/04)**

Freddie Mac will add the "indication spread" utilized in a Quote to the yield on the specified benchmark U.S. Treasury Security in order to communicate an indication interest rate to the Seller. Freddie Mac bases the indication spread on preliminary information about the proposed transaction and, in its sole discretion, Freddie Mac may change the indication spread.

**d. Obligations of the parties (05/11/10)**

Issuance of a Quote will not obligate the Seller to submit a full underwriting package or obligate Freddie Mac to purchase the proposed Mortgage.

**17.10 Standard delivery—full underwriting package (10/14/16)**

After Freddie Mac issues a Quote, the Seller may deliver a full underwriting package to Freddie Mac. Upon the delivery of the full underwriting package, a nonrefundable application fee in the amount of the greater of \$2,000 or 0.1 percent of the proposed Mortgage amount will be deemed earned by Freddie Mac and will be payable by the Seller as set forth in Section 17.11(e).

Freddie Mac lists the documents that Sellers must include in the full underwriting package in Section 1.1 of Exhibit 1, which applies to the following Mortgages, including those with certain affordable housing characteristics, purchased under the Conventional Cash Mortgage Purchase program using the standard delivery option:

- Conventional Mortgages
- Acquisition or Refinance Lease-Up Mortgages
- Standard refinance Mortgages
- Split Supplemental Mortgages (see Chapter 20)
- Mod Rehab Mortgages (see Section 17.4)

Chapter 55, Documentation and Deliveries contains a complete description of Freddie Mac's requirements for each document in an underwriting checklist, including a description of the required content and whether the document must be certified. Chapter 55 also contains instructions for delivering underwriting packages to Freddie Mac.

If Freddie Mac approves the proposed Mortgage, Freddie Mac will issue a Letter of Commitment as described in Section 17.11.

## **17.11 Standard delivery—Letter of Commitment (09/08/04)**

The Letter of Commitment represents Freddie Mac's offer to purchase a Mortgage secured by an eligible multifamily Property as determined by Freddie Mac. A Letter of Commitment provides the purchase conditions applicable under a mandatory Purchase Contract.

### **a. Issuance of Letter of Commitment (10/14/16)**

After the Seller submits a full underwriting package meeting the requirements of Section 17.10, Freddie Mac will determine if the Mortgage is acceptable for purchase.

If the contemplated Mortgage is acceptable, Freddie Mac will issue a Letter of Commitment stating the maximum Mortgage amount, the maximum annual debt service (principal and interest or interest -only), loan term and amortization period (if applicable), and all additional conditions that must be satisfied before Freddie Mac purchases the Mortgage. If Freddie Mac determines that it will not issue a Letter of Commitment for any reason, Seller must remit the application fee as set forth in Section 17.11(e).

The Letter of Commitment is valid for the period of time stated in the Letter of Commitment. If the Seller fails to accept the Letter of Commitment offer within that stated time period, the Letter of Commitment will automatically expire, Freddie Mac will not be obligated to purchase the Mortgage under any conditions and the Seller must remit the application fee as set forth in Section 17.11(e). The Letter of Commitment will automatically incorporate by reference the terms set forth in Chapter 27, as applicable.

### **b. Seller acceptance (05/11/10)**

The Seller may accept the Letter of Commitment by following the procedures set forth in the Letter of Commitment.

After the Seller executes the Letter of Commitment, the Seller may not transfer, assign or otherwise modify the letter without Freddie Mac's prior written approval.

### **c. Locking interest rate and fixing Mortgage amount and terms (10/14/16)**

The Seller may lock the interest rate and fix the actual Mortgage amount and terms only after the Seller accepts the Letter of Commitment.

In the Letter of Commitment, Freddie Mac will express the Required Net Yield for a Mortgage as a specified number of basis points (net spread) above the yield for a designated benchmark U.S. Treasury Security.

The Seller will use the specified net spread plus the actual yield for the designated benchmark U.S. Treasury Security on the date and time the Seller locks the interest rate to determine the required Net Yield for the Mortgage. The Coupon Rate for the Mortgage will be the Freddie Mac Required Net Yield plus the applicable Servicing Spread.

The Seller may lock the interest rate and fix the Mortgage amount and terms for a fixed-rate Mortgage within the time period set forth in the Letter of Commitment by telephoning the Applicable Freddie Mac Multifamily Regional Office during the time set forth in the Letter of Commitment. Freddie Mac will confirm the current yield on the applicable benchmark U.S. Treasury Security at the time of the call. The Seller must then confirm the following:

1. The caller's name and title;
2. Seller/Servicer name and number;
3. Property name, address and location;
4. Mortgage term, amortization period (if applicable) and yield maintenance period (if applicable);
5. Mortgage amount;
6. The locked Mortgage Coupon Rate, Freddie Mac Accounting Net Yield and Servicing Spread; and
7. Actual annual debt service amount (principal and interest or interest only).

Freddie Mac may record this telephone conversation.

Since the Note for a floating rate Mortgage will provide for interest to accrue at variable rates throughout the term of the Mortgage, the interest rate is not and cannot be fixed by the Letter of Commitment. Therefore, there is not a procedure for “locking the interest rate” under the Letter of Commitment for a floating rate Mortgage. References to “locking the interest rate” or “interest rate lock” mean the acceptance of the Letter of Commitment by the Seller.

If Seller fails to lock the interest rate within the time required in the Letter of Commitment, Seller must remit the application fee as set forth in Section 17.11(e).

**d. Freddie Mac liability for failure to lock the interest rate (09/18/14)**

If Freddie Mac does not have access to MPS or the Origination and Underwriting System (OUS) and/or “real time” market yields on the applicable benchmark US Treasury Security and as a result Freddie Mac is unable to complete the interest rate lock at the time the Seller communicates its intent to interest rate lock, Freddie Mac will not be liable for any damages whether direct or consequential.

**e. Application fee (04/30/19)**

The nonrefundable application fee will be deemed earned by Freddie Mac on the earlier of delivery of the full underwriting package or 30 days after the date the Borrower executes the Seller Application, and will be payable by Seller by wire transfer to Freddie Mac as follows:

- (i) If the Seller locks the interest rate as described above, Seller must remit the application fee by 2:00 p.m. Eastern time on the second Business Day following interest rate lock.
- (ii) If Freddie Mac determines that it will not issue a Letter of Commitment for any reason, Seller must remit the application fee upon demand by Freddie Mac.
- (iii) If Freddie Mac issues a Letter of Commitment and Seller either fails to accept the Letter of Commitment or fails to interest rate lock within the time required in the Letter of Commitment, Seller must remit the application fee upon demand by Freddie Mac.

The Seller must obtain wire transfer instructions from the Applicable Freddie Mac Multifamily Regional Office.

The Seller must send the wire transfer to the attention of *Multifamily Cash Management*. The wire transfer must reference the Property name, the Freddie Mac contact person in Production or Underwriting, and the Freddie Mac loan number.

**f. Exhibit A to the Letter of Commitment (02/29/12)**

After the Seller locks the rate as described above, Freddie Mac will deliver to the Seller a completed Exhibit A (Interest Rate Lock and Mortgage Terms Confirmation Sheet) to the Letter of Commitment. The Seller must execute and cause the completed Exhibit A to be received by Freddie Mac by the close of business on the second Business Day immediately following its receipt by the Seller.

Freddie Mac will treat any failure by the Seller to return the executed Exhibit A to Freddie Mac within two Business Days after rate lock as a nondelivery and may take any applicable remedial action permitted under Chapter 4 or Section 17.14 for such a breach of the Purchase Contract.

**17.12 Standard delivery—final delivery (05/01/14)**

Within the time specified in Exhibit A to the Letter of Commitment, the Seller must deliver to Freddie Mac all of the documents listed in the applicable Final Delivery Table of Contents, found on FreddieMac.com. The Seller must comply with the requirements for final delivery provided in Chapter 32 and the requirements in the Final Delivery Instructions, also found on FreddieMac.com.

**17.13 Standard delivery—funding (05/01/14)**

After final delivery of a Mortgage, Freddie Mac will review the documentation and set the Freddie Mac Funding Date. See Section 32.1(c) for provisions relating to funding.

**17.14 Standard delivery – late delivery; non-delivery**

**a. Late delivery (02/29/12)**

For Mortgages delivered under the standard delivery option, Freddie Mac may, in its discretion, treat either of the following situations as a late delivery of a Mortgage:

- The Seller fails to deliver the Final Delivery Package to Freddie Mac, including sending an email to [mf\\_purchase\\_boarding\\_mgrs@freddiemac.com](mailto:mf_purchase_boarding_mgrs@freddiemac.com) notifying Multifamily Purchase of the delivery of the Electronic Delivery Package, at or before noon Eastern time on the Mandatory Delivery Date.
- The Final Delivery Package, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents.

**b. Remedies for late delivery (02/29/12)**

If Freddie Mac determines that there has been a late delivery of a Mortgage, Freddie Mac may take whatever action or actions it deems appropriate to protect its interests and enforce its rights, including

- Terminating the Purchase Contract (Freddie Mac will elect not to purchase the Mortgage)
- Charging the Seller a late delivery extension fee
- Taking any other action set forth in Chapter 4

**c. Nondelivery (02/29/12)**

For Mortgages delivered under the standard delivery option, Freddie Mac may, in its discretion, treat any of the following situations as a nondelivery of a Mortgage:

- The Seller fails to deliver the Final Delivery Package to Freddie Mac, including sending an email to [mf\\_purchase\\_boarding\\_mgrs@freddiemac.com](mailto:mf_purchase_boarding_mgrs@freddiemac.com) notifying Multifamily Purchase of the delivery of the Electronic Delivery Package, at or before noon Eastern time on the Mandatory Delivery Date.
- The Mortgage, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents
- After issuance of the Letter of Commitment, there has been a material adverse change from what was disclosed to Freddie Mac in the full underwriting package in either of the following:
  - The financial position of the Borrower, any Borrower Principal or the guarantor
  - The condition of the Property
- The Final Delivery Package, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents

**d. Remedies for nondelivery (02/29/12)**

If Freddie Mac determines that there has been a nondelivery of a Mortgage, Freddie Mac may take whatever action or actions it deems appropriate to protect its interests and enforce



its rights, including

- Terminating the Purchase Contract (Freddie Mac will elect not to purchase the Mortgage.)
- Taking any other action set forth in Chapter 4
- Charging the Seller a breakage fee

**e. Calculation of the breakage fee (02/29/12)**

As liquidated damages for the nondelivery of a Mortgage, Freddie Mac will charge the Seller a breakage fee, calculated in accordance with the formula set forth in the Letter of Commitment.

**17.15 Early rate-lock delivery option—preliminary underwriting package (10/14/16)**

Freddie Mac specifies the list of documents that Sellers must include in the preliminary underwriting package sent to Freddie Mac in Section 1.1 of Exhibit 1, which applies to the following Mortgages, including those with certain affordable housing characteristics, purchased under the Conventional Cash Mortgage Purchase program using the early rate-lock delivery option:

- Conventional Mortgages
- Acquisition or Refinance Lease-Up Mortgages
- Standard refinance Mortgages
- Split Supplemental Mortgages (see Chapter 20)

Chapter 55, Documentation and Deliveries contains a complete description of Freddie Mac's requirements for each document in an underwriting checklist, including a description of the required content and whether the document must be certified. Chapter 55 also contains instructions for delivering underwriting packages to Freddie Mac.

**17.16 Early rate-lock delivery option—good faith deposit**

**a. Cash good faith deposit (06/29/17)**

For an early rate-lock application, the Seller/Servicer must collect and hold a good faith deposit in the amount specified in the early rate-lock application. The good faith deposit will be held by Seller/Servicer in trust for Freddie Mac as security for all or a portion of the Seller/Servicer's obligations under the early rate-lock application and the Guide. The good faith deposit must be held in a Custodial Account designated as follows:

1. "(Name of Depositor/Servicer), as custodian and/or bailee for Freddie Mac and/or various owners of interests in Mortgages", or

2. The abbreviated designation “Freddie Mac GFD Custodial Account”

However, if the Seller/Servicer uses the abbreviated designation, then for all purposes of the Purchase and Servicing Documents and with respect to all rights and interests of Freddie Mac and/or various owners of interests in Mortgages, the abbreviated account designation will be deemed to be the same as the unabbreviated account designation and will be deemed to confer upon Freddie Mac and those persons the same rights and interests with respect to the good faith deposit Custodial Account and the funds deposited or held in the account.

**b. Letter of credit good faith deposit (06/29/17)**

With the approval of the Applicable Freddie Mac Multifamily Regional Office, the Seller/Servicer may hold a letter of credit in lieu of holding cash in the amount set forth in the early rate-lock application for all or a portion of the good faith deposit.

If the Seller/Servicer is holding a letter of credit, the Seller/Servicer must obtain and hold an opinion of issuer's counsel and a complete and executed Letter of Credit Certification form, in the form found on FreddieMac.com.

**c. Reserved (06/29/17)**

**d. Refund of good faith deposits (06/29/17)**

The good faith deposit may be released by the Seller/Servicer in accordance with Section 17.23.

**17.17 Early rate-lock delivery option—early rate-lock application**

**a. Proceeding with the early rate-lock application (10/05/07)**

If the Mortgage presented in the preliminary underwriting package appears to meet the requirements of the Multifamily Conventional Cash Mortgage Purchase Program, the Applicable Freddie Mac Multifamily Regional Office will inform the Seller that the Seller may proceed with Freddie Mac's early rate-lock application option. Freddie Mac must establish the Mortgage amount, loan term, amortization period (if applicable), indication net spread, servicing fee, prepayment terms and nonstandard provisions pertaining to a specific transaction (if any) prior to the Seller's submission of the early rate-lock application.

**b. Preparing the early rate-lock application (10/05/07)**

Freddie Mac will provide the early rate-lock application form to the Seller. The early rate-lock application will incorporate by reference the provisions set forth in Section 27.3.

**17.18 Early rate-lock delivery option—interest rate-lock; good faith deposit and application fee (05/11/10)**

When the Seller wishes to lock the interest rate and fix the key terms of the Mortgage, the Seller will notify the Applicable Freddie Mac Multifamily Regional Office. At such time, the Seller will send a copy of the early rate-lock application to Freddie Mac, with all provisions completed except those

items that cannot be completed until the interest rate is locked, so that Freddie Mac can verify the terms and conditions of the Application. Freddie Mac will inform the Seller whether the copy of the early rate-lock application is acceptable to Freddie Mac. The early rate-lock application will incorporate by reference the terms set forth in Chapter 27, as applicable.

**a. Fixing the Mortgage amount and terms (05/11/10)**

In the early rate-lock application, Freddie Mac will express the Required Net Yield for a Mortgage as a specified number of basis points (net spread) above the yield for a designated benchmark U.S. Treasury Security. The Seller will use the specified net spread plus the actual yield for the designated benchmark U.S. Treasury Security on the date and time the Seller locks the interest rate to determine the Required Net Yield for the Mortgage. The Coupon Rate for the Mortgage will be the Freddie Mac Required Net Yield plus the applicable Servicing Spread.

**b. Locking the interest rate (02/29/12)**

The Seller may lock the interest rate and fix the Mortgage amount and terms for a fixed-rate Mortgage within the time period set forth in the early rate-lock application by telephoning the Applicable Freddie Mac Multifamily Regional Office during the time period set forth in the early rate-lock application. Freddie Mac will confirm the current yield on the applicable benchmark U.S. Treasury Security at the time of the call. The Seller must then confirm the following:

1. The caller's name and title;
2. Seller/Servicer name and number;
3. Property name, address and location;
4. Mortgage term, amortization period (if applicable) and yield maintenance period (if applicable);
5. Mortgage amount;
6. The locked Mortgage Coupon Rate, Freddie Mac Required Net Yield and Servicing Spread; and
7. Actual annual debt service amount (principal and interest or interest-only).

Freddie Mac may record this telephone conversation.

Since the Note for a floating rate Mortgage will provide for interest to accrue at variable rates throughout the term of the Mortgage, the interest rate is not and cannot be fixed by the early rate lock application. Therefore, there is not a procedure for “locking the interest rate” under the early rate-lock application for a floating rate Mortgage. References to “locking the interest rate” or “interest rate lock” mean the submission of the early rate-lock application by the Seller.

**c. Freddie Mac liability for failure to lock the interest rate (03/31/11)**

If Freddie Mac does not have access to MPS and/or “real time” market yields on the applicable benchmark US Treasury Security and as a result Freddie Mac is unable to complete the interest rate lock at the time the Seller communicates its intent to interest rate lock, Freddie Mac will not be liable for any damages whether direct or consequential.

**d. Executing the early rate-lock application (02/29/12)**

The Seller must execute the early rate-lock application prior to interest rate-lock. After interest rate-lock, the Seller must execute Exhibit A to indicate acceptance of the rate-lock terms. The Seller must submit the executed early rate-lock application and the executed Exhibit A to Freddie Mac using the procedures set forth in the early rate-lock application.

Freddie Mac will treat any failure by the Seller to return the executed Exhibit A to Freddie Mac within two Business Days after rate lock as a nondelivery and may take any applicable remedial action permitted under Chapter 4 or Section 17.25(d) for such a breach of the Purchase Contract.

**e. Collecting and confirming receipt of the good faith deposit (06/29/17)**

The Seller must collect and hold the good faith deposit in accordance with Section 17.16. Within two Business Days following interest rate-lock, the Seller/Servicer must upload to DMS confirmation of the receipt by Seller/Servicer of the good faith deposit in the amount required under the early rate-lock application. If all or a portion of the good faith deposit is a letter of credit, then Seller/Servicer must also upload to DMS within two Business Days following interest rate-lock a copy of the letter of credit, together with a copy of the Letter of Credit Certification Form and the opinion of issuer’s counsel required under Section 17.16(b).

**f. Application fee (06/29/17)**

Upon interest rate-lock, a nonrefundable application fee will be deemed earned by Freddie Mac. Unless otherwise set forth in the early rate-lock application, the amount of the application fee will be the greater of \$2,000 or 0.1 percent of the proposed Mortgage amount. The Seller must remit the application fee by wire transfer by 2:00 p.m. Eastern time on the second Business Day following interest rate-lock.

**17.19 Early rate-lock delivery option—full underwriting package (10/14/16)**

Within the timeframe specified in the application, the Seller must deliver the early rate-lock full underwriting package to Freddie Mac.

Freddie Mac specifies the list of documents that Sellers must include in the full underwriting package sent to Freddie Mac in Section 1.1 of Exhibit 1, which applies to the following Mortgages, including those with certain affordable housing characteristics, purchased under the Conventional Cash Mortgage Purchase program using the early rate-lock delivery option

- Conventional Mortgages

- Acquisition or Refinance Lease-Up Mortgages
- Standard refinance Mortgages
- Split Supplemental Mortgages (see Chapter 20)

The full underwriting package must include any document included in the preliminary underwriting package for which there is a material change. For a complete description of Freddie Mac's requirements for each document, including a description of the required content and whether the document must be certified, see Chapter 55, Documentation and Deliveries. Chapter 55 also contains instructions for delivering underwriting packages to Freddie Mac.

#### **17.20 Early rate-lock delivery option—failure to deliver items after rate-lock (06/29/17)**

If, after rate-locking the Mortgage, the Seller fails to deliver any of the following within the time specified in this chapter or in the early rate lock application, Freddie Mac will be entitled to consider this as a nondelivery and take any of the actions set forth in Section 17.25(d).

- Confirmation that the good faith deposit has been deposited in the Custodial Account
- Originals of the executed early rate-lock application, including Exhibit A, executed by the Seller
- The complete full underwriting package

#### **17.21 Early rate-lock delivery option—acceptance or rejection of early rate-lock application (10/05/07)**

Freddie Mac intends to complete its review of the full underwriting package within 30 days of its receipt (including the Appraisal), but reserves the right to take such additional time as is reasonably necessary to complete its review.

##### **a. Acceptance without modification (05/11/10)**

Freddie Mac will indicate its acceptance of the early rate-lock application by signing the early rate-lock application and delivering it to the Seller.

##### **b. Acceptance with a nonmaterial modification (10/05/07)**

If Freddie Mac determines to accept the early rate-lock application with a nonmaterial modification, Freddie Mac will set forth any adjustments to the terms of the early rate-lock application in an adjustment letter to the Seller along with the fully executed early rate-lock application. The Seller agrees to be bound by any nonmaterial modifications to the early rate-lock application set forth in an adjustment letter.

##### **c. Acceptance with material modification (10/05/07)**

If Freddie Mac determines to modify materially the terms of the early rate-lock application, Freddie Mac will send the signed early rate-lock application, as well as a modification letter setting forth the proposed modification(s), to the Seller. If the Seller does not execute and

return the modification letter within the time specified by Freddie Mac, the early rate-lock application will be deemed to be rejected by Freddie Mac. For the purposes of the early rate-lock delivery option and the early rate-lock application, a "material modification" of the terms of the early rate-lock application means a change that a reasonable borrower or lender would deem to be material to the transaction as a whole.

**d. Mandatory Delivery Date (10/05/07)**

At the time Freddie Mac accepts the early rate-lock application, Freddie Mac will determine the Mandatory Delivery Date by which the Seller must deliver the Final Delivery Package. The Mandatory Delivery Date will be set forth in Exhibit A of the early rate-lock application.

**e. Rejection and refund of the good faith deposit (06/29/17)**

If Freddie Mac rejects the early rate-lock application for any of the following reasons, Freddie Mac will notify the Seller of such rejection and authorize the Seller to release the good faith deposit to the Borrower:

1. There has been a material adverse change in the rental income, operation of the Property or physical condition of the Property due to fire or other casualty.
2. Freddie Mac requires a material modification to the early rate-lock application, and such material modification is not acceptable to the Borrower.
3. The Appraisal, property condition report or environmental report discloses conditions at the Property that are unacceptable to Freddie Mac but were not known by the Seller or the Borrower prior to the interest rate-lock.
4. Freddie Mac rejects the early rate-lock application for a reason other than those set forth in Section 17.21(f).

**f. Rejection and payment of the breakage fee (06/29/17)**

If Freddie Mac rejects the early rate-lock application for any of the following reasons, Freddie Mac, at its option, will collect the Seller breakage fee described in Sections 17.25(e) through 17.25(g) and/or exercise its other remedies under Chapter 4.

1. Any representation, warranty, statement, certificate or other information made or furnished to Freddie Mac in connection with the proposed Mortgage is false or misleading in any material respect as of the date made.
2. There has been a material adverse change in the financial condition or credit of the Borrower, any Borrower Principal or any guarantor from that which was disclosed in writing to Freddie Mac.
3. There has been a material adverse change in the rental income, operation of the Property, physical condition (other than damage resulting from fire or other casualty) of the Property or title to the Property from that which was disclosed in writing to Freddie Mac.

4. The Appraisal, property condition report or the environmental report discloses conditions at the Property that were known by the Seller or the Borrower, were not disclosed in writing to Freddie Mac prior to the interest rate-lock date and that are unacceptable to Freddie Mac.
5. There has been a material change in the ownership of the Borrower, any Borrower Principal or the guarantor from that which was disclosed to Freddie Mac.

#### **17.22 Early rate-lock delivery option—Purchase Contract (05/11/10)**

The early rate-lock application, as modified by any modification letter or adjustment letter, will become Freddie Mac's commitment to purchase the Mortgage upon Freddie Mac's execution of the early rate-lock application without material modification or, if there is a material modification, upon the Seller's execution of any modification letter required by Freddie Mac. When Freddie Mac signs the early rate-lock application, Freddie Mac will be deemed to have entered into a Purchase Contract with the Seller, which obligates the Seller to deliver the Mortgage to Freddie Mac in accordance with the Guide and the terms and conditions set forth in the early rate-lock application, as modified by any modification letter or adjustment letter. Freddie Mac will confirm the Purchase Contract by delivering to the Seller a completed Exhibit A. The Seller must sign Exhibit A and deliver it to Freddie Mac in accordance with the terms of the early rate-lock application.

#### **17.23 Early rate-lock delivery option—release of good faith deposit (06/29/17)**

The Seller/Servicer is not required to wait until the Freddie Mac Funding Date to release the good faith deposit. The Seller/Servicer may release the good faith deposit once the Seller/Servicer has uploaded the following information to DMS under the document type “GFD release evidence”:

- Evidence that the Seller has closed the Mortgage and disbursed the proceeds to or for the account of the Borrower in accordance with the terms of the early rate-lock application and the Guide
- Copy of the executed Note
- Copy of the executed Settlement Statement

Notwithstanding the foregoing, the Seller may not release the good faith deposit if the Seller/Servicer has not submitted the Seller-executed Exhibit A (Interest Rate-Lock and Mortgage Terms Confirmation Sheet) to Freddie Mac.

Any release by the Seller of the good faith deposit pursuant to this Section will not waive or modify any obligation of the Seller to pay the Seller breakage fee that may become due.

#### **17.24 Early rate-lock delivery option—final delivery (06/29/17)**

Within the time specified in Exhibit A to the early rate-lock application, the Seller must deliver to Freddie Mac the Final Delivery Package as described in Chapter 32. See also the Final Delivery Tables of Contents and the Final Delivery Instructions found on FreddieMac.com.

## 17.25 Early rate-lock delivery option—late delivery; nondelivery

### a. Late delivery (02/29/12)

For Mortgages delivered or to be delivered under the early rate-lock delivery option, Freddie Mac may, in its discretion, treat either of the following situations as a late delivery of a Mortgage:

1. The Seller fails to deliver the Final Delivery Package to Freddie Mac, including sending an email to [mf\\_purchase\\_boarding\\_mgrs@freddiemac.com](mailto:mf_purchase_boarding_mgrs@freddiemac.com) notifying Multifamily Purchase of the delivery of the Electronic Delivery Package, at or before noon Eastern time on the Mandatory Delivery Date, or
2. The Final Delivery Package, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents.

### b. Remedies for late delivery (02/29/12)

If Freddie Mac determines that there has been a late delivery of a Mortgage under the early rate-lock delivery option, Freddie Mac may take whatever action or actions it deems appropriate to protect its interests and enforce its rights, including

- Terminating the Purchase Contract (Freddie Mac will elect not to purchase the Mortgage.)
- Charging the Seller a late delivery extension fee
- Taking any other action set forth in Chapter 4

### c. Nondelivery (02/29/12)

For Mortgages delivered or to be delivered under the early rate-lock delivery option, Freddie Mac may, in its discretion, treat any of the following situations as a nondelivery of a Mortgage:

1. The Seller fails to deliver the Final Delivery Package to Freddie Mac, including sending an email to [mf\\_purchase\\_boarding\\_mgrs@freddiemac.com](mailto:mf_purchase_boarding_mgrs@freddiemac.com) notifying Multifamily Purchase of the delivery of the Electronic Delivery Package, at or before noon Eastern time on the Mandatory Delivery Date
2. The Mortgage, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents.
3. After acceptance of the early rate-lock application, there has been a material adverse change from what was disclosed to Freddie Mac in the full underwriting package in either of the following:
  - The financial position of the Borrower, any Borrower Principal or the guarantor
  - The condition of the Property



4. The Final Delivery Package, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents.

**d. Remedies for nondelivery (10/05/07)**

If Freddie Mac determines that there has been a nondelivery of a Mortgage under the early rate-lock delivery option, Freddie Mac may take whatever action or actions it deems appropriate to protect its interests and enforce its rights, including

- Terminating the Purchase Contract (Freddie Mac will elect not to purchase the Mortgage.)
- Taking any other action set forth in Chapter 4
- Charging the Seller the Seller breakage fee

**e. Calculation of the Seller breakage fee (02/29/12)**

As liquidated damages for the nondelivery of a Mortgage pursuant to Section 17.25(b) or upon rejection of a Mortgage pursuant to Section 17.21(f), Freddie Mac will charge the Seller the Seller breakage fee, calculated in accordance with the formula for calculating the Borrower Breakage Fee set forth in the early rate-lock application.

**f. Payment of the Seller breakage fee (06/29/17)**

The Seller must pay to Freddie Mac on demand the Seller breakage fee. The Seller may apply any good faith deposit held by the Seller to pay the Seller breakage fee, but if the Seller breakage fee exceeds the good faith deposit held by the Seller, then the Seller must pay the balance of the Seller breakage fee due.

In payment of the balance of the Seller breakage fee, Freddie Mac will accept an assignment by the Seller of the Borrower's obligation to pay the Borrower Breakage Fee to the Seller. As consideration for the assignment by the Seller and Seller's agreement to cooperate with Freddie Mac, Freddie Mac will agree that the assignment will discharge the Seller's obligation to pay the Seller breakage fee. However, if the Borrower successfully asserts any claim or defense to the obligation to pay the Borrower Breakage Fee assigned by the Seller that arises out of transactions or relationships between the Borrower and the Seller, including, but not limited to, claims or defenses for fraud or set-off, then, notwithstanding the discharge described above, the Seller will owe Freddie Mac any resulting reduction in, or set off against, any amounts payable by the Borrower.

**g. Exceptions to assignment of the Borrower Breakage Fee (10/05/07)**

The provisions set forth above in Section 17.25(f) regarding the assignment of the Borrower Breakage Fee to Freddie Mac in satisfaction of the Seller's obligation to pay the Seller breakage fee will not be applicable under the following conditions:

1. The Borrower has paid the Seller the good faith deposit, but the Seller has not delivered an executed early rate-lock application, the good faith deposit or an executed Exhibit A to Freddie Mac.

2. The Borrower has provided the Seller with the information to deliver a complete and correct full underwriting package, but the Seller has not delivered the complete full underwriting package to Freddie Mac.
3. The Borrower has consummated the loan transaction in accordance with the Seller's application and any commitment that results from the Seller's application, but the Seller has not delivered the Final Delivery Package to Freddie Mac by the Mandatory Delivery Date specified in Exhibit A to the early rate-lock application.
4. The Borrower has consummated the loan transaction in accordance with the Seller's application and any commitment that resulted from the Seller's application, but the Final Delivery Package, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents.

If any of the conditions set forth above occur, Freddie Mac will collect the Seller breakage fee directly from the Seller and will not credit the good faith deposit towards the payment of the Seller breakage fee. In addition, upon demand, the Seller must pay the application fee to Freddie Mac.

#### **17.26 Right to demand delivery of letter of credit (06/19/17)**

If the Seller/Service is holding a letter of credit as all or part of the good faith deposit, Freddie Mac may demand delivery of the letter of credit at any time

- If the Seller fails to provide evidence to Freddie Mac of a renewal or replacement of the letter of credit at least 30 days prior to the expiration of the letter of credit, or
- If Freddie Mac is entitled to retain a late delivery extension fee or the Seller breakage fee.

Upon demand by Freddie Mac, the Seller must deliver the letter of credit to the Applicable Freddie Mac Multifamily Regional Office by hand or overnight courier, for delivery on the Business Day following demand by Freddie Mac, together with the Letter of Credit Certification form and opinion required under Section 17.16(b). Upon receipt by Freddie Mac of the Letter of Credit, Freddie Mac may draw upon all or a part of the letter of credit at any time and without notice to the Seller.

#### **17.27 Early rate-lock delivery option—accuracy of information (09/08/05)**

Freddie Mac is relying upon the truth and accuracy of all representations, warranties, statements, certificates and other information furnished to Freddie Mac by the Seller in connection with the early rate-lock application and the Mortgage regardless of whether any of such documents were prepared by the Seller or whether the Seller knew or had reason to know the accuracy of their contents.