

# Multifamily Seller/Service Guide

## Chapter 27

### Commitment or Early Rate Lock Application



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## 27.1 Overview of commitment and early rate lock application options (04/15/21)

This chapter details requirements relating to:

- Freddie Mac's standard delivery option, including any Letter of Commitment issued by Freddie Mac, and
- Freddie Mac's early rate lock delivery option, including any early rate lock application submitted to Freddie Mac

Unless otherwise specified, the provisions of this chapter apply to both the standard delivery and early rate lock delivery options.

Except as specified in Chapter 18SBL, this chapter will not apply to the SBL Purchase Product.

### a. Delivery options (04/15/21)

Freddie Mac offers the following two delivery options:

#### 1. Standard delivery option; Letter of Commitment

In the standard delivery option, Freddie Mac determines the proposed Mortgage Financial Terms and conditions for the purchase of the Mortgage after Freddie Mac's receipt and approval of the full underwriting package. Rate Lock occurs after Freddie Mac has issued, and the Seller has accepted, the Letter of Commitment.

When the Seller accepts the Letter of Commitment, the Seller will have entered into a Purchase Contract with Freddie Mac. The Purchase Contract obligates the Seller to deliver the Mortgage to Freddie Mac in accordance with the provisions and conditions set forth in the Letter of Commitment by the Mandatory Delivery Date specified in the Confirmation Sheet.

#### 2. Early rate lock delivery option; early rate lock application

In the early rate lock delivery option, Freddie Mac determines the proposed Mortgage Financial Terms and conditions for the purchase of the Mortgage after Freddie Mac's receipt and approval of the preliminary underwriting package, but prior to receipt and approval of the full underwriting package. Rate Lock occurs after the Seller has executed and submitted the early rate lock application to Freddie Mac, but before the early rate lock application has been accepted by Freddie Mac.

The early rate lock application will not become a Purchase Contract when the Seller completes the Rate Lock. The early rate lock application will become a Purchase contract only when either of the following occurs:

- Freddie Mac accepts the early rate lock application and executes an Acceptance Letter setting forth the nonmaterial modification(s), if any, to the early rate lock application, or



- Freddie Mac requires a Material Modification in a Modification Letter and the Seller accepts the Material Modification and executes the Modification Letter

The early rate lock delivery option is available for all Conventional Cash Mortgages with a minimum principal amount of \$2.5 million. The early rate lock delivery option is available for other Mortgage products if specified in the applicable Guide chapter for such other Mortgage products.

**b. Index Lock (for fixed-rate Mortgages only) (04/15/21)**

In addition to the two delivery options, for certain fixed-rate Mortgages Freddie Mac may in its sole discretion allow the Seller to lock the yield rate on the applicable U.S. Treasury security (“Index Lock”) prior to submitting the underwriting package to Freddie Mac pursuant to an agreement between Freddie Mac and the Seller (“Index Lock Agreement”). After Index Lock, the Seller will proceed pursuant either to the standard delivery option or the early rate lock delivery option, as specified in the Index Lock Agreement.

**27.2 Loan Submission Template (LST) (04/15/21)**

To receive a Quote from Freddie Mac, the Seller must submit the applicable LST as provided at [https://mf.freddiemac.com/lenders/uw/loan\\_submission\\_template.html](https://mf.freddiemac.com/lenders/uw/loan_submission_template.html), together with the required supporting documents to begin the process.

**27.3 Quote (04/15/21)**

**a. Quote (04/15/21)**

If the Mortgage presented in the LST and supporting documents appears to meet the requirements of the applicable Freddie Mac Mortgage program, Freddie Mac will, at its option, issue a Quote.

**b. Obligations of the parties (04/15/21)**

A Quote is non-binding. If Freddie Mac issues a Quote, the Seller will not be obligated to submit a full underwriting package and Freddie Mac will not be obligated to issue a Letter of Commitment, accept an early rate lock application or purchase the proposed Mortgage.

**c. Information in Quote (04/15/21)**

The Quote will include the proposed Mortgage Financial Terms and any other preliminary requirements based on the information contained in the LST and supporting documents.

**d. Quoted spread and interest rate (04/15/21)**

The quoted net spread and gross spread are based on preliminary information about the proposed Mortgage. Freddie Mac, in its sole discretion, may change the quoted net spread or quoted gross spread.



## 27.4 Required Seller provisions for Seller Application, Letter of Commitment and early rate lock application (04/15/21)

### a. Authorization to publicly use transactional information (04/15/21)

The Seller Application must include the following authorization:

“The Borrower understands that [Name of Seller] intends to sell the mortgage loan for which Borrower is applying (the “Mortgage”) to Freddie Mac. Borrower agrees that [Name of Seller] and Freddie Mac may publicly use, at their discretion, the name and location of the Property, photographs of the Property, and basic transaction and property level information (for example, the number of units in the Property and the loan amount) relating to the Mortgage.”

### b. Breakage provisions (04/15/21)

Seller’s commitment or early rate lock application (or the equivalent) with the Borrower must include the provisions relating to breakage set forth in the Letter of Commitment or early rate lock application, as applicable. Freddie Mac’s standard language regarding breakage may be obtained at [https://mf.freddiemac.com/docs/breakage\\_fee\\_provisions.docx](https://mf.freddiemac.com/docs/breakage_fee_provisions.docx).

If any part of such breakage provisions is not enforceable under the laws of the applicable jurisdiction, the Seller must promptly notify Freddie Mac in writing of such unenforceability and recommend alternate language that will be enforceable under applicable law.

## 27.5 Underwriting package (04/15/21)

After Freddie Mac issues a Quote, the Seller may proceed with the standard delivery option by delivering to Freddie Mac a full underwriting package, or the early rate lock delivery option (if available) by delivering a preliminary underwriting package.

Freddie Mac specifies the list of documents in the preliminary and full underwriting package in the applicable section of Exhibit 1, Underwriting Checklists.

Chapter 55 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.

## 27.6 Application fee and payment (08/17/23)

### a. Application fee (04/15/21)

Once earned, the application fee is nonrefundable. Unless otherwise set forth in the Commitment, the early rate lock application, the Acceptance Letter or the Modification Letter, the standard application fees are as follows:



Mortgage product	Fee
Conventional Cash	Greater of \$2,000 or 0.1% of Mortgage amount
Seniors Housing	Greater of \$5,000 or 0.15% of Mortgage amount
Targeted Affordable Housing Cash	Greater of \$3,000 or 0.1% of Mortgage amount
Supplemental	Greater of \$5,000 or 0.1% of Mortgage amount
Small Balance Loan	See Chapter 18SBL
Targeted Affordable Housing Tax Exempt Loan	Greater of \$3,000 or 0.1% of Mortgage Amount
Targeted Affordable Housing Bond Credit Enhancement	0.1% of Mortgage Amount

**b. Standard Delivery – payment of application fee (04/15/21)**

For the standard delivery option, 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.

The Seller must remit the application fee as follows:

	When Seller must remit application Fee	Amount of application fee
If a Rate Lock has occurred	By 2:00 p.m. Eastern time on the second Business Day following Rate Lock	Based on the rate locked Mortgage amount
If Freddie Mac issues a Letter of Commitment and Seller fails to accept the Commitment or Rate Lock by the Expiration Date	Upon demand by Freddie Mac	Based on the maximum Mortgage amount set forth in the Letter of Commitment
If Freddie Mac determines that it will not issue a Letter of Commitment for any reason	Upon demand by Freddie Mac	Based on the maximum Mortgage amount set forth in the Seller Application



**c. Early rate lock – payment of application fee; additional application fee (08/17/23)**

For the early rate lock delivery option, the nonrefundable application fee will be deemed earned by Freddie Mac at Rate Lock. The Seller must remit the application fee to Freddie Mac by 2:00 p.m. Eastern time on the second Business Day after Rate Lock.

If the Mortgage amount increases after final underwriting, an additional nonrefundable application fee determined in accordance with the formula set forth in Section 27.6(a) will be deemed earned by Freddie Mac upon Seller's execution of the Acceptance Letter and must be remitted to Freddie Mac by 2:00 p.m. Eastern time on the second Business Day after Seller's execution of the Acceptance Letter.

**d. Wire transfer (04/15/21)**

The Seller must obtain wire transfer instructions for the application fee from Freddie Mac.

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

**27.7 Standard delivery – Letter of Commitment (04/15/21)**

**a. Issuance of a Letter of Commitment (04/15/21)**

If Freddie Mac approves the proposed Mortgage, Freddie Mac will issue a Letter of Commitment to the Seller. The Letter of Commitment will provide the Mortgage Financial Terms (except for those items that cannot be completed until Rate Lock) and the purchase conditions applicable to the Mortgage.

**b. Seller acceptance (04/15/21)**

The Seller may accept the Letter of Commitment by countersigning the Letter of Commitment executed by Freddie Mac and causing it to be received by Freddie Mac via DMS no later than the Expiration Date.

**c. Seller failure to accept Letter of Commitment (04/15/21)**

If the Seller fails to accept the Letter of Commitment and Rate Lock by the Expiration Date, the Letter of Commitment will automatically expire, and Freddie Mac will not be obligated to purchase the Mortgage.

**27.8 Early rate lock delivery – early rate lock application (04/15/21)**

**a. Proceeding with the early rate lock delivery option (04/15/21)**

If the Mortgage presented in the preliminary underwriting package appears to meet Freddie Mac's requirements, Freddie Mac will inform the Seller that the Seller may proceed with the early rate lock delivery option.





### b. Preparing the early rate lock application (04/15/21)

Freddie Mac will provide an unexecuted early rate lock application form to the Seller, completed with the Mortgage Financial Terms (except for those items that cannot be completed until Rate Lock) and other provisions pertaining to the Mortgage acceptable to Freddie Mac.

### c. Execution by the Seller (04/15/21)

If the Seller desires to proceed to Rate Lock, the Seller must execute the early rate lock application and cause it to be received by Freddie Mac via DMS no later than the Expiration Date.

## 27.9 Early rate lock delivery option – Freddie Mac’s reliance (04/15/21)

The Seller assumes responsibility for the truth and accuracy of all information delivered by it to Freddie Mac in connection with a Mortgage sold to Freddie Mac using the early rate lock application.

The Seller acknowledges that Freddie Mac will incur certain financial liabilities in connection with an early rate lock application. Freddie Mac will rely upon the veracity 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 even if such documents were not prepared by the Seller and whether or not the Seller knew or had reason to know the accuracy of their contents.

## 27.10 Early rate lock delivery – good faith deposit (04/15/21)

### a. General requirements for early rate lock good faith deposit (04/15/21)

As security for all or a portion of the Seller’s obligations under the early rate lock application, the Seller must collect the required good faith deposit from Borrower and hold it in trust for Freddie Mac. Within two Business Days following Rate Lock, the Seller must upload confirmation of its receipt of the required good faith deposit to DMS as follows:

Type of good faith deposit	Seller must upload to DMS
Cash (see Section 27.10(b) below)	Copy of the wire confirmation to the Custodial Account
Letter of credit (see Section 27.10(c) below)	Copies of the: <ul style="list-style-type: none"> <li>• Letter of credit</li> <li>• Opinion of issuer’s counsel</li> <li>• Letter of Credit Certification form</li> </ul>
Demand note (see Section 27.10(c) below)	Copy of the demand note

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Unless otherwise set forth in the early rate lock application, the standard good faith deposit amounts are as follows:

Type of loan	Type of good faith deposit	Standard good faith deposit amount
Floating-rate loan	Cash or letter of credit	Greater of 1% of the maximum Mortgage amount or \$25,000
	Demand note	Greater of 2% of the maximum Mortgage amount or \$25,000
Fixed-rate Loan	Cash or letter of credit (Early Rate Lock 9 months or less)	Greater of 2% of the maximum Mortgage amount or \$50,000
	Cash or letter of credit (Early Rate Lock > 9 months and < 12 months)	Greater of 3% of the maximum Mortgage amount or \$50,000
	Demand note	Greater of 3% of the maximum Mortgage amount or \$50,000

**b. Cash (04/15/21)**

A cash good faith deposit must be held in a Custodial Account meeting the requirements of Chapter 52 and must be designated exactly as shown in one of the following:

- “(Name of Depositor/Servicer), as custodian and/or bailee for Freddie Mac and/or various owners of interests in Mortgages,” or
- “Freddie Mac GFD Custodial Account.” However, if the Seller 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.

**c. Letter of credit or demand note (04/15/21)**

With the approval of Freddie Mac, in lieu of holding cash for all or a portion of the good faith deposit, the Seller may hold either:

- A letter of credit, subject to compliance with the requirements of Section 11.2, or



- Under limited circumstances, a demand note in the form published at [https://mf.freddiemac.com/docs/demand\\_promissory\\_note.docx](https://mf.freddiemac.com/docs/demand_promissory_note.docx) and otherwise meeting all of Freddie Mac's requirements

**d. Amount waived; waiver to benefit Borrower (04/15/21)**

Under certain circumstances, Freddie Mac may in its sole discretion waive all or a portion of the good faith deposit. The amount of the waiver will be specified in the early rate lock application.

Freddie Mac's waiver of all or a portion of the good faith deposit is intended to benefit the Borrower. The Seller is prohibited from collecting any type of security from the Borrower to secure payment of any portion of the Breakage Fee to the extent that the good faith deposit is waived. Seller may still collect funds from the Borrower for purposes unrelated to the waived portion of the good faith deposit.

**e. Release (04/15/21)**

The Seller is authorized to release the good faith deposit to Borrower on or after the Freddie Mac Funding Date. The Seller may release the good faith deposit to Borrower after the Origination Date but before the Freddie Mac Funding Date if all the following conditions are satisfied, provided that such early release will not waive or modify any obligation of the Seller to pay any Breakage Fee that may become due:

- The Seller has uploaded the final Confirmation Sheet, executed by both Freddie Mac and Seller, to DMS
- Seller has originated the Mortgage and disbursed the loan proceeds to or for the account of Borrower in accordance with the terms of the Purchase Contract
- Seller uploads a copy of the executed Note and Settlement Statement to DMS using the document type "GFD release evidence"

**27.11 Reserved (04/15/21)**

**27.12 Reserved (04/15/21)**

**27.13 Breakage Obligor (04/15/21)**

**a. Requirement for Breakage Obligor (04/15/21)**

If required by the Letter of Commitment or the early rate lock application, the Seller must ensure that a Breakage Obligor (defined below) will be jointly and severally liable with the Borrower for the payment of the Breakage Fee.

**b. Definition of Breakage Obligor (04/15/21)**

For purpose of this section, the “Breakage Obligor” is one of the following:

- All of the Guarantor(s)
- If there is no Guarantor, an individual or entity that (x) has a net worth and liquidity sufficient to pay the maximum Breakage Fee and (y) has an ownership interest in the Borrower or another relationship to the Borrower or the Loan that is legally sufficient to support the contractual obligation to pay the Breakage Fee

**c. Freddie Mac approval of Breakage Obligor (04/15/21)**

If Freddie Mac approves in writing a Breakage Obligor that is not a Guarantor, the Seller will not be liable for such individual or entity’s failure to satisfy the conditions set forth in (b) above.

**27.14 Locking the interest rate and other terms (04/15/21)****a. Fixed-rate Mortgages (04/15/21)****1. Rate lock**

Prior to Rate Lock of a fixed rate Mortgage, the Seller must execute and upload to DMS the Letter of Commitment or the early rate lock application, as applicable.

To Rate Lock a fixed rate Mortgage, the Seller must complete a Rate Lock Call no later than the Expiration Date.

At Rate Lock, Freddie Mac will complete the Confirmation Sheet with the Yield Rate. Except as set forth in Section 27.15, the “Yield Rate” will be the greater of (A) the actual yield for the designated benchmark U.S. Treasury security on the date and time of Rate Lock and (B) the Treasury Floor, if a Treasury Floor is specified in the Confirmation Sheet.

The interest rate for the Mortgage will equal the Yield Rate plus the net spread and the Servicing Spread, all as specified in the Confirmation Sheet.

**2. Rate Lock Call**

Freddie Mac may record the Rate Lock Call. On the Rate Lock Call, the Seller must confirm the following:

- The caller's name and title
- Seller name
- Property name



- Mortgage term, amortization period (if applicable), interest only period (if applicable), interest rate calculation method and yield maintenance period (if applicable)
- Mortgage amount
- The interest rate for the Mortgage, net spread, and Servicing Spread
- Actual annual debt service amount (principal and interest or interest only)

### 3. No liability

If Freddie Mac does not have access to any system it uses to Rate Lock and/or “real time” market yields on the applicable benchmark U.S. Treasury security and as a result Freddie Mac is unable to complete the Rate Lock at the time the Seller communicates its intent to Rate Lock, Freddie Mac will not be liable for any damages whether direct or consequential.

### 4. Prior Index Lock

If there has been a prior Index Lock, the provisions of this section are subject to Section 27.15.

## b. Floating-Rate Mortgages (04/15/21)

### 1. Spread Lock generally

The interest rate for a Floating-Rate Mortgage, which will vary during the term of the Mortgage, will be determined by adding the net spread and the Servicing Spread set forth in the Confirmation Sheet to the applicable index. Because the interest rate for a Floating-Rate Mortgage cannot be fixed by the Letter of Commitment or early rate lock application, there is no procedure for “locking the interest rate” for a Floating-Rate Mortgage. References to “locking the interest rate” or “Rate Lock” for a Floating-Rate Mortgage will mean locking the net spread and the Servicing Spread set forth in the Confirmation Sheet.

### 2. Procedure for Spread Lock

Prior to Rate Lock of a Floating-Rate Mortgage, the Seller must execute and upload to DMS the Letter of Commitment or the early rate lock application, as applicable.

The Seller may lock the net spread and the Servicing Spread by providing Freddie Mac authorization before the Expiration Date to lock the spread.

## 27.15 Effect of prior Index Lock (fixed-rate Mortgages only) (04/15/21)

The provisions of this Section 27.15 will apply only to any fixed rate Mortgage where there was a prior Index Lock.

**a. Index-Locked Portion (04/15/21)**

The Yield Rate for the portion of the Mortgage that is subject to the prior Index Lock (the “Index-Locked Portion”, as set forth in the Confirmation Sheet) will be the Index-Locked Yield Rate as specified in the Confirmation Sheet. Since the Yield Rate for the Index-Locked Portion is already locked, references in the Commitment to “locking the interest rate” and “Rate Lock”, with respect to the Index-Locked Portion will refer to locking the spread.

**b. Non Index-Locked Portion (04/15/21)**

If there is a portion of the Mortgage that is not subject to the prior Index Lock (the “Non Index-Locked Portion”, as set forth in the Confirmation Sheet), the Yield Rate for the Non Index-Locked Portion will be the greater of (x) the actual yield on the designated benchmark U.S. Treasury security on the date and time of Rate Lock and (y) the Treasury Floor, if a Treasury Floor is specified in the Confirmation Sheet.

**c. Spread (04/15/21)**

If there is a Non Index-Locked Portion of the Mortgage, the net spread and/or Servicing Spread for the Index-Locked Portion and the Non Index-Locked Portion may differ.

**d. Blended rate (04/15/21)**

If there is a Non Index-Locked Portion of the Mortgage, Freddie Mac will determine the interest rate for the Mortgage by blending the interest rate for the Index-Locked Portion and the interest rate for the Non Index-Locked Portion, if applicable. Freddie Mac’s determination of the blended rate will be binding and conclusive absent manifest error.

**27.16 Rate Lock and Mortgage Terms Confirmation Sheet (04/15/21)****a. Confirmation of Rate Lock Terms (04/15/21)**

After Rate Lock, Freddie Mac will deliver to the Seller a completed Confirmation Sheet.

No later than the Business Day immediately following the Seller’s receipt of the Confirmation Sheet, the Seller must execute and upload to DMS the Confirmation Sheet to indicate its acceptance of the Rate Lock terms.

**b. Failure to Return Confirmation Sheet (04/15/21)**

If the Seller fails to return the executed Confirmation Sheet to Freddie Mac within the required time, Freddie Mac may, in its discretion, treat such failure as a Nondelivery.

**27.17 Reserved (04/15/21)****27.18 Early rate lock delivery—delivery due dates and requirements (02/17/22)**

After Rate Lock, the Seller must deliver the full underwriting package in accordance with the following chart depending on the length of the early rate lock application. The Mandatory Delivery

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Date will also be determined as set forth below unless otherwise specified in the Confirmation Sheet.

Type of early rate lock	Funding Length	Date full underwriting package is due	Mandatory Delivery Date
4-month early rate lock	120 Day Funding	45 days after Rate Lock	Earlier of: <ul style="list-style-type: none"> <li>• 105 days after Rate Lock</li> <li>• 25 days after Freddie Mac's acceptance of the early rate lock application</li> </ul>
3-month early rate lock	90 Day Funding	22 days after Rate Lock	75 days after Rate Lock
2.5-month early rate lock	75 Day Funding	15 days after Rate Lock	60 days after Rate Lock
2-month early rate lock	60 Day Funding	7 days after Rate Lock	45 days after Rate Lock

At Freddie Mac's discretion, the following extensions may be available to add to a 4-month early rate lock. If an extension is applicable, then after Rate Lock the Seller must deliver the full underwriting package in accordance with the following chart. The Mandatory Delivery Date will also be determined as set forth below unless otherwise specified in the Confirmation Sheet.

Type of early rate lock	Type of extension (in addition to 120 Day Funding)	Date full underwriting package is due	Mandatory Delivery Date is the earlier of the date below or 25 days after Freddie Mac's acceptance of the early rate lock application
8-month early rate lock	4-month extension	165 days after Rate Lock	225 days after Rate Lock
7-month early rate lock	3-month extension	135 days after Rate Lock	195 days after Rate Lock



Type of early rate lock	Type of extension (in addition to 120 Day Funding)	Date full underwriting package is due	Mandatory Delivery Date is the <u>earlier</u> of the date below or 25 days after Freddie Mac's acceptance of the early rate lock application
6-month early rate lock	2-month extension	105 days after Rate Lock	165 days after Rate Lock
5-month early rate lock	1-month extension	75 days after Rate Lock	135 days after Rate Lock

The full underwriting package must include any document included in the preliminary underwriting package for which there is a material change.

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

## 27.19 Early rate lock delivery – acceptance or rejection of early rate lock application (12/16/21)

### a. Freddie Mac actions (04/15/21)

Following its complete review of the full underwriting package, Freddie Mac will take one of the following actions with respect to the early rate lock application:

- Accept the early rate lock application with no modifications
- Accept the early rate lock application with nonmaterial modifications, but without a reduction of the mortgage amount
- Accept the early rate lock application with nonmaterial modifications, including a reduction of the mortgage amount
- Accept the early rate lock application with a Material Modification
- Reject the early rate lock application

“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. Any change that is not a Material Modification will be deemed a nonmaterial modification.





**b. Acceptance of the early rate lock application with no modifications or with nonmaterial modifications, without a reduction of the Mortgage amount (04/15/21)**

If Freddie Mac accepts the early rate lock application either (i) with no modifications or (ii) with nonmaterial modifications, but without a reduction of the Mortgage amount, Freddie Mac will issue an Acceptance Letter specifying the Mortgage Financial Terms for the Mortgage, which will include, if applicable, any nonmaterial modifications to the terms of the early rate lock application submitted by the Seller.

By submitting the early rate lock application, the Seller agrees to be bound by any nonmaterial modifications to the early rate lock application set forth in the Acceptance Letter. The Seller must acknowledge and upload the Acceptance Letter, including its agreement to service the Mortgage, to DMS in accordance with the terms specified in the Acceptance Letter. Failure to sign and upload to DMS the Acceptance Letter (including the agreement to service the Mortgage) will constitute a Nondelivery and Freddie Mac, at its option, will collect the Breakage Fee from the Seller. The Breakage Fee will be calculated based on the rate locked Mortgage amount.

**c. Acceptance of the early rate lock application with nonmaterial modifications, including a reduction of the Mortgage amount (04/15/21)**

**1. Reductions in Mortgage amount**

If the full underwriting package demonstrates a Low Appraisal/LTV, Low Income or Occupancy and/or Low NOI/DCR (as each such term is defined in this chapter) and no other basis for a Rejection exists, in lieu of a Rejection, Freddie Mac, in its sole discretion (based upon the underwriting standards and criteria utilized as of the date of the Rate Lock), may accept the early rate lock application with nonmaterial modifications, but reduce the Mortgage amount. The reduction in the Mortgage amount will not be deemed a Material Modification.

If there is a reduced Mortgage amount (“Reduced Mortgage Amount”), Freddie Mac will issue an Acceptance Letter specifying the Mortgage Financial Terms for the Mortgage, which will include, if applicable, any nonmaterial modifications to the terms of the early rate lock application submitted by the Seller. The Acceptance Letter will include a revised Confirmation Sheet reflecting the Reduced Mortgage Amount and any changes necessitated by the change in the Mortgage amount. None of such changes will be deemed a Material Modification.

By submitting the early rate lock application, the Seller agrees to be bound by any nonmaterial modifications to the early rate lock application set forth in the Acceptance Letter, including any reduction in the Mortgage amount. The Seller must acknowledge and upload the Acceptance Letter, including the revised Confirmation Sheet and its agreement to service the Mortgage, to DMS in accordance with the terms specified in the Acceptance Letter. Failure to sign and upload to DMS the Acceptance Letter (including the revised Confirmation Sheet and the agreement to service the Mortgage) will constitute a Nondelivery and Freddie Mac, at its option, will collect the Breakage Fee from the Seller. The Breakage Fee will be calculated based on the rate locked Mortgage amount.



## 2. Breakage Fee for Reduced Mortgage Amount

Except as otherwise set forth in this chapter, the following provisions will apply to a Reduced Mortgage Amount:

- If the reduction of the Mortgage amount is 10% or less of the rate locked Mortgage amount, then no Breakage Fee will be due
- If the reduction of the Mortgage amount is more than 10 percent of the rate locked Mortgage amount, then Freddie Mac, at its option, will collect a Breakage Fee from the Seller calculated on the difference between 90 percent of the rate locked Mortgage amount and the Reduced Mortgage Amount. In such cases, the Acceptance Letter will specify the amount of the Breakage Fee.

## 3. Nondelivery after Seller Acknowledgement

If there is a Nondelivery after the Seller's acknowledgement and execution of the Acceptance Letter and the revised Confirmation Sheet, then the Breakage Fee will be calculated based on the original rate locked Mortgage amount and not the Reduced Mortgage Amount.

### d. Acceptance of the early rate lock application with a Material Modification (04/15/21)

If Freddie Mac determines following its complete review of the full underwriting package that it will not purchase the Mortgage without a Material Modification of the terms of the early rate lock application, Freddie Mac will send a Modification Letter to the Seller setting forth the proposed modifications, including, if applicable, a revised Confirmation Sheet.

If the proposed Material Modification set forth in the Modification Letter is not acceptable to the Borrower, then the early rate lock application will be deemed to be Rejected by Freddie Mac, but the Seller will not owe a Breakage Fee and Freddie Mac will authorize the Seller to release the good faith deposit to the Borrower.

If the proposed Material Modification set forth in the Modification Letter is acceptable to the Borrower, the Seller must sign the Modification Letter, including its agreement to service the Mortgage and, if applicable, the revised Confirmation Sheet, and upload it to DMS in accordance with the terms specified in the Modification Letter.

If the proposed Material Modification set forth in the Modification Letter is acceptable to the Borrower, but the Seller does not execute and return the Modification Letter (including its agreement to service the Mortgage and, if applicable, the revised Confirmation Letter) within the time specified by Freddie Mac in the Modification Letter, the early rate lock application will be deemed to be Rejected by Freddie Mac and Freddie Mac, at its option, will collect the Breakage Fee from the Seller, in which event the provisions of Section 27.27(c) regarding the good faith deposit and the assignment of Seller's rights to collect the Breakage Fee from the Borrower will not apply.



#### e. Rejection of the early rate lock application (12/16/21)

If Freddie Mac determines following its complete review of the full underwriting package that it will not purchase the Mortgage, it will Reject the early rate lock application.

##### 1. Rejection with no Breakage Fee

If Freddie Mac Rejects the early rate lock application for any of the following reasons, the Seller will not owe a Breakage Fee; Freddie Mac will notify the Seller of such Rejection and authorize the Seller to release the good faith deposit to the Borrower:

- A. Material adverse change in any of the following due to fire or other casualty prior to the date that Freddie Mac accepts the early rate lock application:
  - Rental income
  - Expenses for operation of the Property
  - Physical condition of the Property
- B. Disclosure of conditions at the Property in any of the following reports that are unacceptable to Freddie Mac but were not known by the Seller or the Borrower prior to the Rate Lock:
  - Appraisal
  - Property condition report
  - Environmental report
  - Zoning report
- C. If Freddie Mac requires a Material Modification that is not acceptable to the Borrower
- D. Any reason not set forth in Section 27.19(e)(2)

##### 2. Rejection with Breakage Fee

If Freddie Mac Rejects the early rate lock application for any of the following reasons, Freddie Mac, at its option, may collect the Breakage Fee from the Seller and/or exercise its other remedies set forth in the Guide:

- A. Material adverse change in any of the following not attributable to fire or other casualty:
  - Title to the Property



- Physical condition of the Property
  - Property operation
  - Rental income
- B. Material adverse change in the financial condition or credit of any of the following from that which was disclosed in writing to Freddie Mac:
- Borrower
  - Borrower Principal(s)
  - Guarantor(s)
- C. A change (whether direct or indirect) in the Control or in the ownership of any of the following from that which was disclosed in writing to Freddie Mac prior to the Rate Lock that is unacceptable to Freddie Mac in Freddie Mac's sole discretion:
- The Property
  - Borrower
  - Borrower Principal(s)
  - Guarantor(s)
- D. Disclosure of conditions at the Property in any of the following reports that are unacceptable to Freddie Mac that were known by the Seller or the Borrower but not disclosed in writing to Freddie Mac prior to the Rate Lock:
- Appraisal
  - Property condition report
  - Environmental report
  - Zoning report
- E. Either the income or occupancy reflected on the rent roll delivered with the full underwriting package is lower than the required income and occupancy set forth in the early rate lock application, and Freddie Mac (using the same underwriting standards that it used at Rate Lock) determines in its reasonable discretion that the Property will not be able to meet the occupancy and income requirements by the origination date of the Mortgage ("Low Income or Occupancy")



- F. The net operating income is less than the required net operating income set forth in the early rate lock application and/or the debt coverage ratio, as determined by Freddie Mac in its sole and absolute discretion (using the same underwriting standards that it used at Rate Lock), is less than the minimum debt coverage ratio set forth in the early rate lock application (“Low NOI/DCR”)
- G. The appraised value set forth in the appraisal is less than the minimum appraised value set forth in the early rate lock application and/or the loan-to-value ratio, as determined by Freddie Mac in its sole and absolute discretion (using the same underwriting standards that it used at Rate Lock), exceeds the maximum loan-to-value ratio set forth in the early rate lock application (“Low Appraisal/LTV”)
- H. 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
- I. Any other reason specified in the early rate lock application

## **27.20 Early rate lock delivery – Increased Mortgage Amount (04/15/21)**

After Freddie Mac has reviewed the full underwriting package, the Seller may request that Freddie Mac increase the rate locked Mortgage amount if the full underwriting package demonstrates that, based on an increase in net operating income and other factors (excluding a higher than expected appraised value), the Property can support an increased Mortgage amount and meet the minimum debt coverage and maximum loan-to-value ratio set forth in the early rate lock application.

Freddie Mac will determine, in its sole and absolute discretion, if the Seller’s request for an increase is supported by the full underwriting package and, if applicable, will determine the increased Mortgage amount (“Increased Mortgage Amount”).

The amount of the increase must be at least the greater of \$100,000 or 1% of the rate locked Mortgage amount and may not exceed 10% of the rate locked Mortgage amount.

If Freddie Mac determines an Increased Mortgage Amount is supported, it will issue an Acceptance Letter specifying the Mortgage Financial Terms for the Mortgage, which will include a revised Confirmation Sheet reflecting the following:

- The Increased Mortgage Amount
- Corresponding changes to the monthly payment amount and other amounts calculated based on the Mortgage amount, including any buy-up amount
- For any fixed rate Mortgage subject to a prior Index Lock, the interest rate applicable to the Increased Mortgage Amount and the final, blended interest rate applicable to the Mortgage in accordance with the terms of the early rate lock application



- If applicable, requirements triggered because the Increased Mortgage Amount crosses an existing underwriting threshold (e.g., requirements for Mortgages  $\geq$  \$25,000,000 or  $\geq$  \$100,000,000)
- Any other nonmaterial modifications to the terms of the early rate lock application submitted by the Seller

None of the changes described above will be deemed to be a Material Modification.

By submitting the early rate lock application, the Seller agrees to be bound by any nonmaterial modifications to the early rate lock application set forth in the Acceptance Letter. The Seller must acknowledge and upload the Acceptance Letter, including the revised Confirmation Sheet and its agreement to service the Mortgage, to DMS in accordance with the terms specified in the Acceptance Letter. Failure to sign and upload to DMS the Acceptance Letter, including the revised Confirmation Sheet and its agreement to service the Mortgage will constitute a Nondelivery and Freddie Mac, at its option, will collect the Breakage Fee from the Seller. The Breakage Fee will be calculated based on the rate locked Mortgage amount.

Upon Seller's execution and delivery of the revised Confirmation Sheet, the rate locked Mortgage amount will be deemed to be the Increased Mortgage Amount for all purposes.

#### **27.21 Reserved (04/15/21)**

#### **27.22 Reserved (04/15/21)**

#### **27.23 Final Delivery and purchase requirements (04/15/21)**

After final delivery of a Mortgage, Freddie Mac will review the documentation and set the Freddie Mac Funding Date.

See Chapter 32 and the Final Delivery Tables of Contents and the Final Delivery Instructions at <https://mf.freddie.mac.com/lenders/purchase/> for information on final delivery and purchase.

#### **27.24 Nondelivery (04/15/21)**

##### **a. General (04/15/21)**

Freddie Mac may, in its discretion, treat any of the following situations as a Nondelivery:

1. The Seller fails to return the Confirmation Sheet to Freddie Mac via DMS within the time required
2. The Mortgage or Final Delivery Package, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents



3. After the Letter of Commitment or the early rate lock application becomes a Purchase Contract (as described in Section 27.1), it is determined that 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, including damage to the Property due to fire or other casualty
4. The Seller fails to deliver the Final Delivery Package to Freddie Mac at or before noon Eastern time on the Mandatory Delivery Date, including notifying Multifamily Purchase in accordance with Section 32.1(c)
5. Any other situation described in this Guide or in the Purchase Contract as a Nondelivery

**b. Early rate lock delivery – additional Nondelivery events (04/15/21)**

In addition to the events set forth in (a) above, for the early rate lock delivery option, Freddie Mac may, in its discretion, treat any of the following as a Nondelivery:

1. The Seller fails to return the executed early rate lock application, the Acceptance Letter or Modification Letter, as applicable (including its agreement to service the Mortgage), or the Confirmation Sheet to Freddie Mac via DMS within the time required
2. The Seller does not collect and hold the good faith deposit in the amount required
3. The Seller fails to submit proof acceptable to Freddie Mac that all or any portion of the good faith deposit has been deposited or is being held in accordance with Section 27.10
4. The Seller fails to deliver the complete full underwriting package within the time specified in the early rate lock application

**c. Remedies for Nondelivery (04/15/21)**

If there is a Nondelivery, Freddie Mac will be entitled to take whatever 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 the Breakage Fee as liquidated damages
- Taking any other action set forth in Chapter 4

**27.25 Reserved (04/15/21)**



## 27.26 Late delivery (04/15/21)

### a. General (04/15/21)

Freddie Mac may, in its sole discretion, treat either of the following situations as a late delivery of a Mortgage rather than a Nondelivery:

1. The Final Delivery Package, as delivered, fails to meet Freddie Mac's requirements as set forth in the Purchase and Servicing Documents
2. The Seller fails to deliver the Final Delivery Package to Freddie Mac at or before noon Eastern time on the Mandatory Delivery Date (inclusive of notifying Multifamily Purchase in accordance with Section 32.1(c))

### b. Remedies (04/15/21)

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:

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

## 27.27 Payment of the Breakage Fee (06/17/21)

### a. Payable on demand (06/17/21)

If the Seller is liable for the Breakage Fee under the terms of the Guide or the provisions of the Commitment, the early rate lock application or any Acceptance Letter or Modification Letter, as applicable, the Seller must pay to Freddie Mac on demand the Breakage Fee.

Freddie Mac's collection of the Breakage Fee will not prevent it from exercising any other remedies set forth in the Guide.

### b. Good faith deposit (04/15/21)

Upon Freddie Mac's demand for the Breakage Fee, the Seller must deliver to Freddie Mac any good faith deposit collected by the Seller.

Except as set forth in this Section 27.27, the amount of the good faith deposit paid to Freddie Mac will be credited towards the Seller's obligation to pay the Breakage Fee.

If the Breakage Fee exceeds the amount of the good faith deposit paid to Freddie Mac, then the Seller must pay to Freddie Mac the balance of the Breakage Fee.



**c. Seller's Assignment (04/15/21)**

If Freddie Mac is entitled to collect the Breakage Fee, the Seller must, upon notice from Freddie Mac, immediately assign to Freddie Mac all of its rights, title and interest under the Seller's commitment or early rate lock application (or the equivalent) with the Borrower to the Breakage Fee, including the Seller's rights and remedies against the Borrower and Breakage Obligor to collect the Breakage Fee ("Seller's Assignment").

**d. Discharge of the Seller's obligation to pay the Breakage Fee (06/17/21)**

Except as set forth in Section 27.27(e), Freddie Mac will discharge the Seller's obligation to pay the Breakage Fee to Freddie Mac if the Seller satisfies each of the following requirements:

1. It completes the Seller's Assignment
2. It has complied with the provisions under the Letter of Commitment or the early rate lock application, as applicable, requiring the Seller to include provisions relating to breakage set forth in the Letter of Commitment or early rate lock application and to cause a Breakage Obligor to be liable for the Breakage Fee
3. It pays to Freddie Mac any good faith deposit collected by the Seller
4. It cooperates with Freddie Mac in all aspects of the collection of the Breakage Fee from the Borrower and Breakage Obligor

**e. Exceptions to discharge (06/17/21)**

The Seller will not be entitled to the discharge of its obligation to pay the Breakage Fee described in Section 27.27(d) if any of the following occurs:

1. The Seller has not complied with its obligations under the Letter of Commitment or early rate lock application to collect, hold, and deliver to Freddie Mac evidence of receipt of the good faith deposit, and such failure is not the result of the Borrower's actions
2. The Seller has not delivered to Freddie Mac an executed Confirmation Sheet or an executed early rate lock application, Acceptance Letter, or Modification Letter, as applicable, and such failure is not the result of the Borrower's actions
3. The Seller has not delivered to Freddie Mac a complete and correct full underwriting package in a timely manner, and such failure is not the result of the Borrower's actions
4. The Seller has not delivered the Final Delivery Package to Freddie Mac by the Mandatory Delivery Date and such failure is not the result of the Borrower's failure or inability to consummate the loan transaction as required by and in accordance with the terms and conditions of the Seller's commitment or early rate lock application (or the equivalent) with the Borrower



5. The Seller delivers the Final Delivery Package to Freddie Mac in a form that does not satisfy Freddie Mac's requirements as set forth in the Purchase and Servicing Documents and such failure is not the result of the Borrower's failure to make corrections to the delivery requested by the Seller in order to conform the delivery to the terms of the Seller's commitment or early rate lock application (or the equivalent) with the Borrower

If any of the conditions set forth above occur, Freddie Mac will not accept the Seller's Assignment, will not credit the good faith deposit towards the payment of the Breakage Fee, and will collect the Breakage Fee directly from the Seller.

**f. Seller's liability for Breakage Fee (04/15/21)**

Notwithstanding the discharge of the Seller's obligation to pay the Breakage Fee described in Section 27.27(d), if the Borrower or any Breakage Obligor successfully asserts any claim or defense to its obligation to pay the Breakage Fee that arises out of transactions or relationships between the Borrower and/or Breakage Obligor and the Seller, including claims or defenses for fraud or set-off, then the Seller will owe Freddie Mac any resulting reduction in, or set off against, any amounts payable by the Borrower and/or Breakage Obligor.

If the Seller's commitment or early rate lock application (or the equivalent) with the Borrower does not contain the required breakage provisions, including the correct formula for the Breakage Fee, and as a result Freddie Mac is unable to collect the full amount of the Breakage Fee, the Seller will owe Freddie Mac any resulting difference.

If Freddie Mac waives any portion of the Breakage Fee then due, then the Seller will not be obligated to pay the amount waived.

**27.28 Right to demand delivery of good faith deposit letter of credit or demand note (04/15/21)**

If the Seller is holding a letter of credit as all or part of the good faith deposit, and 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, then Freddie Mac may demand the immediate assignment and delivery of the letter of credit to Freddie Mac.

If the Seller is holding a letter of credit or demand note as all or part of the good faith deposit and Freddie Mac is entitled to a late delivery extension fee or the Breakage Fee, then Freddie Mac may demand immediate assignment and delivery of the letter of credit or demand note.

If Freddie Mac demands assignment and delivery of either the letter of credit or demand note in accordance with this Section 27.28, then the Seller must deliver the letter of credit or demand note in accordance with the instructions of Freddie Mac 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 by the Guide with respect to a letter of credit. Following its receipt of the letter of credit or demand note, Freddie Mac may draw upon all or a part of the letter of credit or demand payment under the demand note, as applicable, at any time and without notice to the Seller.



## 27.29 General terms (02/17/22)

The following terms are incorporated into each Freddie Mac Letter of Commitment or early rate lock application, including any applicable Acceptance Letter or Modification Letter.

### a. Assignment (04/15/21)

The Seller will not have the right to assign or otherwise transfer the early rate lock application or Purchase Contract resulting from the early rate lock application or any Letter of Commitment without the prior written consent of Freddie Mac, which consent may be granted or withheld in Freddie Mac's sole discretion.

Freddie Mac will have the right to assign or otherwise transfer its rights in any Letter of Commitment, early rate lock application or any Purchase Contract resulting from any Letter of Commitment or early rate lock application to any affiliate or subsidiary of Freddie Mac without the consent of the Seller. After such an assignment, for the purpose of the applicable Mortgage(s), all references to Freddie Mac in such Letter of Commitment, early rate lock application, Purchase Contract or in the Guide will be deemed to refer to the affiliate or subsidiary of Freddie Mac to which the assignment has been made.

### b. Assignment of documents (04/15/21)

At final delivery, the Seller must include an assignment to Freddie Mac of any and all of its rights, title and interest in each document required to be executed by the Borrower under the Letter of Commitment or early rate lock application.

### c. Remedies (04/15/21)

If the Seller breaches any provisions or conditions of the Letter of Commitment or early rate lock application, in addition to any rights and remedies specified in the Letter of Commitment or early rate lock application, Freddie Mac will have all rights and remedies specified in the Guide.

### d. Conflicts with the Guide (04/15/21)

If any provisions set forth in the Letter of Commitment or early rate lock application are inconsistent with any provisions set forth in the Guide, the provisions of the Letter of Commitment or early rate lock application will govern. If the Letter of Commitment or early rate lock application is silent with respect to any subject covered by provisions set forth in the Guide, the provisions in the Guide will govern.

### e. Exclusivity (04/15/21)

The terms and provisions of the Letter of Commitment or early rate lock application are intended for the sole and exclusive benefit of Freddie Mac and the Seller and are not for the benefit of any other party, including the Borrower. Each condition to Freddie Mac's obligation to purchase the Mortgage is for the exclusive benefit of Freddie Mac and may be waived in writing by Freddie Mac in whole or in part in Freddie Mac's discretion.



**f. Modifications (04/15/21)**

The provisions of the Letter of Commitment or early rate lock application may not be modified or in any way changed by implication or subsequent conduct, correspondence or otherwise, unless such waiver, modification or change is expressly stated as such and is specifically agreed to in writing by Freddie Mac and the Seller.

**g. Merger (04/15/21)**

No statements, agreements or representations, oral or written, which may have been made to the Seller or to any employee or agent of the Seller, by any employee, representative or agent acting on Freddie Mac's behalf, with respect to the Mortgage or otherwise, will be of any force or effect except to the extent stated in the Letter of Commitment or early rate lock application, and all prior agreements and representations made with respect to the Mortgage are merged into the Letter of Commitment or early rate lock application.

**h. Copies and originals (04/15/21)**

Copies of the Letter of Commitment or early rate lock application with signature pages uploaded to DMS will be binding and effective as to each party and may be used in lieu of an original Letter of Commitment or early rate lock application and in lieu of an original signature.

**i. Survival (04/15/21)**

The provisions and conditions of the Letter of Commitment or early rate lock application will survive final delivery of the Mortgage.

**j. “Lender’s” consent / “Lender’s” requirements (04/15/21)**

Certain provisions of the Letter of Commitment or early rate lock application may refer to matters which must be “acceptable to Lender” or “approved by Lender” or “submitted to Lender for its review and approval,” or comply with “all requirements of Lender” or words of similar meaning. The Seller acknowledges that as between the Seller and Freddie Mac and as a condition to Freddie Mac's obligation to purchase the Mortgage, all such matters must be acceptable to or approved by Freddie Mac, in Freddie Mac's discretion, prior to the Origination Date, and as to the Seller, Lender's requirements shall mean all Freddie Mac's requirements.

**k. Governing law (04/15/21)**

The Letter of Commitment or early rate lock application will be governed by the laws of the Commonwealth of Virginia.

**l. Form of documents (04/15/21)**

The Seller must originate the Mortgage using the applicable Freddie Mac Multifamily Loan Documents available at <https://mf.freddie.mac.com/lenders/legal/>:

- For non-SBL Mortgages, the Seller may use any version of the Multifamily Loan Documents that have been included on the Currently Acceptable Multifamily Loan



Documents list at <https://mf.freddiemac.com/lenders/legal/> during the period between the date of the Letter of Commitment and the Origination Date, or the date that the Seller executed the early rate lock application and the Origination Date

- For SBL Mortgages, the Seller may use any version of the Multifamily Loan Documents that have been included on the Currently Acceptable Multifamily Loan Documents-SBL list at <https://mf.freddiemac.com/lenders/legal/> during the period between the date of the Letter of Commitment and the Origination Date

**m. Incorporation of exhibits (04/15/21)**

Any exhibits or schedules attached to the Letter of Commitment or early rate lock application are incorporated into the Letter of Commitment or early rate lock application.

**n. Securitization disclosure (04/15/21)**

The Seller/Servicer acknowledges, as originator of the Mortgage, that if it contributes 20 percent or more of the Mortgages in a Securitization, or if the Seller/Servicer will service 20 percent or more of the Mortgages in a Securitization, then, at the request of Freddie Mac, the Seller/Servicer will provide all the following items in a form customary and consistent with then-current market practices:

1. Information to be included in the Securitization offering documents with respect to the Seller/Servicer in its capacity as originator of the Mortgages and, if applicable, in its capacity as primary servicer or sub-servicer of the Mortgages in the Securitization, including a description of the sub-servicing agreement (“Seller/Servicer’s Disclosure Information”)
2. An indemnification in form and substance satisfactory to Freddie Mac with respect to the Seller/Servicer’s Disclosure Information for the benefit of Freddie Mac, Issuer Person, Issuer Group and Underwriter Group for the applicable Securitization. Issue Person, Issuer Group and Underwriting Group will have the meanings given to them in the Loan Agreement.
3. A letter of counsel (often referred to as a 10b-5 Negative Assurances Letter) addressing whether the Seller/Servicer’s Disclosure Information contains an untrue statement of any material fact or the Seller/Servicer’s Disclosure Information omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading or other such language acceptable to Freddie Mac

If the Seller/Servicer, as originator of the Mortgage, contributes less than 20 percent of the Mortgages to a Securitization or if the Seller/Servicer will service less than 20 percent of the Mortgages in a Securitization, then the Seller’s Disclosure Information, indemnification and letter of counsel, as applicable, may not be required.

### **27.30 Explanation of terms and additional requirements (08/17/23)**

The following explanation of terms and additional requirements are incorporated into each Freddie Mac Letter of Commitment and early rate lock application:



**a. Maximum Mortgage amount (04/15/21)**

For a fixed rate Mortgage, the maximum Mortgage amount will be based on a maximum Benchmark U.S. Treasury security set forth in the Letter of Commitment or early rate lock application. The actual Mortgage amount will be calculated at Rate Lock and will be rounded down to the nearest \$1,000 increment.

**b. Floating-Rate Mortgage (04/15/21)**

For a Floating-Rate Mortgage, the interest rate for an adjustment period will equal the Index Rate for the interest adjustment period plus the margin. The margin will remain fixed during the term of the Mortgage.

**c. Defeasance Mortgage and yield maintenance period (04/15/21)**

For a Mortgage which prohibits prepaying the Mortgage but allows the Borrower to defease the Mortgage, the yield maintenance period set forth in the Letter of Commitment or early rate lock application will be applicable only until the date of Securitization if securitization occurs before the “Cut-off Date” as specified in the Note (typically one year after the Origination Date).

**d. Operational repairs (04/15/21)**

If there are Operational Repairs, the Seller/Servicer must deliver the Repair Letter to the Borrower on or before the Origination Date.

**e. O&M Programs (08/17/23)**

Each O&M Program required by the Letter of Commitment or early rate lock application must comply with all requirements set forth in the environmental report prepared for the Mortgage and with all requirements in the Guide.

- If requested, a copy of each O&M Program, reflecting that it is the O&M Program for the Property, must be submitted to Freddie Mac
- Unless otherwise set forth in the Letter of Commitment or early rate lock application, each O&M Program must provide that it will be implemented within no more than 60 days after the origination date of the Mortgage
- If the Borrower previously established an O&M Program in connection with a Senior Mortgage then the same O&M Program must remain in effect

**f. Interest rate cap (04/15/21)**

If a third-party interest rate cap is required then the cap provider, agreement and term must be acceptable to Freddie Mac. Cap payments must be made to a trust account of the Seller as the Servicer for Freddie Mac unless Freddie Mac directs otherwise.

