

Multifamily Seller/Servicer Guide

Chapter 51 Prepayments

51.1 Prepayments

a. Review of prepayment provision (04/30/15)

The Servicer is responsible for the initial review of a Borrower's request to prepay a Mortgage in whole or in part. Before responding to any inquiry regarding the prepayment of a Mortgage serviced for Freddie Mac, the Servicer must carefully review the terms of the Note to determine any prepayment restrictions and the amount of any prepayment premium to be collected if prepayment is permitted. For example, a Plan B Mortgage may not be prepaid in whole or in part unless the prepayment is made after the permitted prepayment date specified in the Note.

A Servicer may accept a prepayment of principal in whole or in part only if the prepayment is made in accordance with the terms of the Note. The Servicer may not waive any restrictions on prepayment.

b. Delegation of determination of the prepayment amounts and notice to Borrower (04/30/15)

In connection with a full prepayment of a Mortgage, Freddie Mac delegates to the Servicer the authority to determine the prepayment amount, including calculating the amount of any prepayment premium, and to inform the Borrower of the total prepayment amount, if the Mortgage meets the following conditions:

- The Mortgage is owned by Freddie Mac
- The Mortgage has a prepayment premium that is calculated as a percentage of the unpaid principal balance of the Mortgage
- The Mortgage is current, with no pending workouts, delinquencies or events of default under the terms of the Loan Documents
- The Mortgage is not being refinanced with a new loan which Freddie Mac has committed to purchase
- There are no pending asset management transactions or waiver requests with respect to the Mortgage

The Servicer must advise Freddie Mac of the amount of the delegated prepayment calculations by email to Mfopsloanacctpayoffs@freddiemac.com within two Business Days after the Servicer provides the quoted prepayment calculations to the Borrower or the Borrower's agent.

Freddie Mac will confirm all delegated prepayment calculations following the payoff of the Mortgage, and will advise the Servicer of any shortfall or overpayment.

- The Servicer must remit the amount of any shortfall to Freddie Mac within 10 days following Freddie Mac's notice of shortfall to the Servicer. If the Servicer does not satisfy the shortfall within 10 days, Freddie Mac will charge penalties and/or interest and/or revoke this delegation for future payoffs.
- If Freddie Mac determines that it has received an overpayment, Freddie Mac will return the amount of the overpayment to the Servicer for reimbursement to the Borrower.

Freddie Mac may revoke the delegation to calculate the prepayment amount and the prepayment premium amount at any time by written notice to the Servicer.

c. Notice to Freddie Mac of the request for prepayment (04/30/15)

If the delegation provided in Section 51.1(b) does not apply, then before a Servicer quotes a partial or full prepayment amount or any prepayment premium, the Servicer must notify Freddie Mac Multifamily Loan Accounting as described in this Section. Within five Business Days after the Servicer's receipt of the Borrower's notice of intent to prepay the Mortgage in whole or in part, the Servicer must request Freddie Mac's approval of the prepayment and confirmation of the Servicer's calculation of any applicable prepayment premium by electronically delivering to Freddie Mac the completed Loan Payoff Notice, available on FreddieMac.com, together with all accompanying documentation specified in the Loan Payoff Notice instructions.

Multifamily Loan Accounting will confirm receipt of the loan payoff notification package via email to the Servicer within one Business Day following receipt.

d. Freddie Mac review (04/30/15)

Freddie Mac will review the Loan Payoff Notice and will notify the Servicer via email of the results of the review. If Freddie Mac does not agree with the Servicer's conclusions, then Freddie Mac will provide the correct information, which the Servicer must then provide to the Borrower.

If Freddie Mac concurs with the Servicer's calculations, then the Freddie Mac response will

- Confirm the prepayment premium percentage
- Verify the prepayment premium calculation
- Calculate the amount of the Yield Maintenance Prepayment Premium that Freddie Mac will pay the Servicer, if applicable
- Advise the Servicer of any current outstanding amounts due to Freddie Mac for legal fees or advances on the loan

e. Assignment of Mortgage in lieu of prepayment in full (04/30/15)

If the property is located in a State in which it is the practice to assign an existing Mortgage rather than prepay in full and discharge the Mortgage, Freddie Mac will assign its interest in the Mortgage under the following terms:

1. The Servicer must provide the notice and information required by Section 51.1(c). In addition, the Servicer must provide
 - Name and contact information for law firm handling the assignment
 - New assignee name and address
2. The law firm preparing the assignment will send the Servicer its current form of Assignment of Mortgage that will assign the Mortgage without recourse to Freddie Mac. The Servicer is responsible for ensuring the legal sufficiency of the assignment form.
3. At least five Business Days before the proposed date of the assignment of the Mortgage, the Servicer must forward to Freddie Mac Multifamily Loan Accounting the proposed original assignment documents (Assignment of Mortgage, Cancellation of Leases or Rents) for signature by Freddie Mac. Freddie Mac will execute and return the assignment as directed in writing by the Servicer.

f. Attempts to avoid restrictions (09/28/12)

The Servicer must identify attempts by Borrowers to avoid the prepayment restrictions. These attempts at avoidance may be disguised as defaults and may follow an unsuccessful attempt by a Borrower to tender a prohibited prepayment. The Servicer must advise Borrowers who seek to avoid prepayment restrictions or prepayment premiums that Freddie Mac will vigorously exercise its legal and equitable rights and remedies under the Loan Documents and any applicable federal or State law.

g. Liability of Servicer (12/05/03)

Each Servicer is responsible for the review of prepayment requests from Borrowers, the calculation of prepayment premiums, the determination of any restrictions on prepayments and the calculation of the payoff amount.

Each Servicer is responsible for quoting prepayment amounts to Borrowers or their agents and is liable to Freddie Mac for any errors in the amount of any payoff.

Any Servicer that fails to enforce any prepayment restriction or to collect prepayment premiums on any Multifamily Mortgage serviced for Freddie Mac may be subject to sanctions, such as suspension, termination of Servicing, penalties and legal action by Freddie Mac for specific performance, damages or other actions.

h. Short payoffs (03/31/11)

If the Servicer receives a proposal from the Borrower to prepay less than the total UPB of a Mortgage, accrued interest and prepayment premium, the Servicer should immediately refer the request to the Multifamily Asset Resolution Asset Transactions Analyst.

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i. Requests for Freddie Mac execution of documents (04/30/15)

See Section 43.17(c).

j. Documentation delivered after payment-in-full (04/30/15)

See Section 43.17(d).