

# Borrower Consents

## *Service After the Sale*

Pamela Dent

David Goozman

- Process Changes in 2016
  - » Loan Assumptions
  - » Repair Extensions
- General Reminders
- Consent Request Tracker
- Recent Trends
  - » Preferred Equity
  - » Crowdfunding

# Process Changes

- Why are we changing the Assumption review process?
  - » Continued enhancement of the Servicing Standard
  - » Feedback from Select Sponsors regarding approval timing
  - » Transparency to property seller and buyer
  - » Servicing parties to be more proactive
- What is the new process?
  - » A two-step review process
    - Early Indication review of the proposed **Sponsor** (not the Borrower)
      - Eight items to be collected, as indicated on new resource document (Transfer of Ownership Underwriting Requirements by Party)
    - Final review of the Borrower, property and loan document issues
  - » Does not apply to Small Balance Loan Program

- New Resources to support the process changes  
*([www.Freddiemac.com/Multifamily/Asset Management/Asset Management References](http://www.Freddiemac.com/Multifamily/Asset Management/Asset Management References))*
  - » Transfer of Ownership Underwriting Requirements by Party
  - » Early Indication letters for property seller and buyer
  - » Freddie Mac's Approach to Loan Assumption Requests
- Guide updated as of 4/29/2016
- Underwriting document collection monitoring by Freddie Mac
  - » Beginning June 1<sup>st</sup>, Servicers upload the underwriting items to DMS
  - » Upload each underwriting item as collected
    - Portfolio/Warehouse loans: Document type “Transfer of Ownership”
    - Securitized Loans: Document type “Post-securitization” consent using document titles and/or comments

- CRT updated as of May 5<sup>th</sup> to reflect two-step review process
  - » New Consent request type
    - Transfer of Ownership / Assumption: Early Indication (Step 1)
      - Temporary fix to track step 1 review
      - Select “No” for FM or MS Approval Required question
      - Early Indication record should be closed out when Early Indication letters are issued
      - New record created in CRT for Step 2 review
    - Transfer of Ownership / Assumption (Step 2)

- Approval letters no longer require Servicer to countersign
- Amendment to the Loan Agreement is no longer required for simple extensions
- Loans designated for specific securitization with completion due dates falling during securitization period will be extended by Freddie Mac to 15 days after settlement of the securitization
  - » Notice letter issued to Primary Servicer 30 days prior to settlement of the securitization
  - » Freddie Mac will update PRS to reflect new repair due dates
  - » Notice letter will not apply to life/safety repairs; extension request still required from Primary Servicer for such matters

- Delegated SBL Repair Extensions
  - » Servicer may extend due dates up to 12 months after the origination date if:
    - The outstanding required repairs pose no life, health or safety issues
    - The Mortgage is not otherwise in default
  - » Provide to Freddie Mac a completed Servicer request form and copy of approval letter issued as notification of extension
  - » A CRT record is still required
    - Freddie Mac or Master Servicer Approval Required? Should be marked “No”

# General Reminders

- Repair Extensions
  - » Current Rent Roll or at least current occupancy must be shown on Servicer request form
  - » If current occupancy has declined since underwriting or last occupancy reported, provide explanation
    - Be alert to declines caused by Property Improvement Alterations
  - » Calculate accurate extension time (actual days versus months) and include specific new due date
- DMS
  - » Correct Document Type: job aid available
    - Securitized loan, “Post-Securitization Consent Request”
    - Portfolio/Warehouse loan, select specific document type
  - » After uploading request, go to File Submission link and follow options to send email notice to appropriate team mailbox

- Document Delivery
  - » Be mindful of delivery due dates in Approval Letter
    - Certain documents are due within 2 days or 5 days
  - » Pending securitization, need wet signatures asap for legal documents
  - » If certified copies are provided, follow up to obtain recorded copies when available
  - » UCC Filings: deliver appropriate amendments, new filings and terminations as detailed on the Document Inventory list provided with approval letter
    - We have been correcting several recently for securitization
  - » First liens and supplemental loans: Deliver documents to the correct parties please!

# Consent Request Tracker (CRT)

- Recent Enhancements
  - » B2B Portal: system connectivity with Servicers
    - Eliminates duplication of data entry by Servicers
    - Initial connection with KeyBank; other Servicer connections underway
  - » Special Servicers can view consent requests for performing loans that do not require their approval
- Later in 2016
  - » “Early Indication” Review Process for Assumptions
  - » Search function by Primary Servicer or Master Servicer loan number, or request ID
  - » Automatic cancellation of aged records (no update in 90 days)
  - » Property Management Company changes: Fields for incoming and outgoing firms

# Recent Trends

**Common Equity**                      **Preferred Equity**                      **Mezzanine Debt**

## Preferred Equity

Investment of capital

Unsecured

From / to a member or partner

Investor expects a preferred rate of return

Investor may have rights no other investor has

Terms are in a partnership or operating agreement

## Debt (Inc. Mezzanine Debt)

Investment is a loan

Secured

Lender / borrower relationship

Lender expects interest and amortization

Lender has default remedies in cases of nonpayment

Terms are in a loan and/or intercreditor agreement

- If we are underwriting the preferred equity, and the investor would be a qualified Borrower Principal, why do we care?
- What is the difference between hard pay preferred equity and soft pay preferred equity?
- Preferred Equity will be deemed hard pay if it has at least one of the following attributes:
  - » The preferred return must be paid even if there is insufficient net cash flow, with no provision for forgiveness or accrual
  - » A set redemption date (unless more than 1 year after loan maturity)
  - » The right to exercise a control takeover based on the Property's inability to meet quantifiable performance measures such as occupancy or DSCR
  - » Investor may require a forced sale if the preferred return or the preferred contribution is not paid

- Crowdfunding is the practice of funding a project or venture by raising capital from a large number of people, typically via the Internet
- Regulated by Jumpstart Our Business Startups Act (JOBS Act)
  - » Title II: Passed 9/2013 - Firm can sell securities to accredited investors
  - » Title III: Passed 5/2016 - Firm can sell securities to unaccredited investors (Freddie Mac does not permit)
- Investors must be passive with no Borrower control rights