



Fannie Mae®

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# Multifamily Selling and Servicing Guide

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## Section 402 Delegation of Decision-Making Authority; Retention of Outside Legal Counsel

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### 402.01 Delegation of Decision-Making Authority

Fannie Mae delegates significant decision-making authority and responsibility to the Servicer to the extent specified in the Multifamily Asset Management Delegated Transaction Forms ([Form 4636 series](#)) (each, the “Delegated Transaction Form”), covering the following matters:

- Transfers/Assumptions ([Form 4636.TA](#));
- Commercial Leases ([Form 4636.CL](#));
- Condemnations ([Form 4636.C](#));
- Condominium/Cooperative Property Conversions ([Form 4636.CC](#));
- Easements ([Form 4636.E](#));
- Oil, Gas, or Mineral Rights Leases ([Form 4636.OGL](#));
- Partial Releases of Collateral ([Form 4636.PR](#));
- Property Management Changes ([Form 4636.PM](#)); and
- Use Conversions ([Form 4636.UC](#)).

The Servicer must follow the instructions in the Delegated Transaction Form, which will specify which matters are delegated and which are non-delegated. All delegated and non-delegated requests must be submitted through the MAMP, with the Delegated Transaction Form and the required supporting documents.

A transaction memo must be submitted for any unusual matters not covered in the Guide, or matters that could materially affect Fannie Mae’s security interests, investment interests, or the interests of Investors in Securitized Mortgage Loans. Decision-making authority is more limited for Credit Facilities, Bulk Deliveries, and certain Seniors Housing Loan matters. Neither the Servicer nor Fannie Mae has the authority to waive any local, state, or federal law or regulation.

### 402.02 Retention of Outside Legal Counsel

Fannie Mae often retains outside legal counsel to review non-delegated matters or other matters that require Fannie Mae’s legal review. In such instance, the Servicer must obtain the Borrower’s written agreement to pay the reasonable legal fees and expenses of Fannie Mae’s counsel



before any legal work may commence.

If Fannie Mae outside counsel review is required or requested, the Borrower must pay the applicable legal fee, which will either be a fixed fee or an estimated fee depending on the type of request. For an estimated fee request, the Servicer must notify the Borrower that the actual legal fee may be higher or lower than the estimate, depending on the ultimate scope of the request, and the time needed to resolve the issue.

Fannie Mae will:

- apprise the Servicer of any likely increases in the estimated review fee;
- provide the Servicer the amount of the fee for any fixed fee request; and
- provide the Servicer a summary invoice directly from Fannie Mae's outside counsel.

Upon receipt of the invoice, the Servicer must arrange for payment of Fannie Mae's legal fees. The legal fee must be collected from the Borrower before engaging Fannie Mae outside counsel.



# Glossary

## B

**Borrower** Person who is the obligor per the Note.

### **Synonyms**

- Borrowers
- Borrower's

## C

**Collateral** Property, Personal Property, or other property securing a Mortgage Loan.

**Condominium** Statutorily established Property ownership regime where Condominium Documents designate:

- individual units for separate ownership; and
- common areas for shared use and joint ownership by the unit owners.

**Cooperative Property** Multifamily residential property owned by a Cooperative Organization.

### **Synonyms**

- Co-op
- Cooperative

## D

**Delegated Transaction Form** Multifamily Asset Management Delegated Transaction Form ([Form 4636 series](#)) used to determine whether certain asset management requests from a Borrower are delegated to the Servicer.

### **Synonyms**

- Delegated Transaction Forms

## G



Guide Multifamily Selling and Servicing Guide controlling all Lender and Servicer requirements unless a Lender Contract specifies otherwise.

**Synonyms**

- DUS Guide

## M

MAMP Multifamily Asset Management Portal used to submit

- Property inspections,
- operating statements,
- requested modifications,
- asset management reports, and
- data corrections for loan or property attributes.

**Synonyms**

- Multifamily Asset Management Portal
- MAMP's

Multifamily Asset Management Team that can be contacted at [drawer\\_am@fanniemae.com](mailto:drawer_am@fanniemae.com).

## P

Property Multifamily residential real estate securing the Mortgage Loan, including the

- fee simple or Leasehold interest,
- Improvements, and
- personal property (per the Uniform Commercial Code).

**Synonyms**

- Properties
- Property's

## S



## Servicer

Primary Person servicing the Mortgage Loan, including

- the originator,
- seller, or
- a third party.

### **Synonyms**

- Servicers
- Servicer's