

Multifamily Seller/Servicer Guide

Chapter 25

Originating a Targeted Affordable Housing

Tax-Exempt Loan

25.1 Overview of the Tax-Exempt Loan (TEL) program (09/28/18)

The Targeted Affordable Housing (TAH) Tax-Exempt Loan (TEL) program utilizing the prior approval model allows Freddie Mac to purchase tax-exempt governmental notes used in the financing of targeted affordable housing. The notes may bear interest at a variable rate (variable-rate Mortgages) or at a fixed rate (fixed-rate Mortgages).

See Exhibit 2, Origination Guidelines for Affordable Products for additional information about the types of affordability components that are available to Targeted Affordable Housing Seller/Servicers.

This chapter describes

- The requirements and procedures that the Seller must follow to originate a Tax-Exempt Loan (TEL)
- The characteristics that the loan structure must have in order for Freddie Mac to purchase the TEL

The Seller/Servicer and Freddie Mac will both rely on Single Counsel for TELs rather than Seller's counsel for any matters Single Counsel handles for the Seller/Servicer and Freddie Mac. See Section 25.8(a) for a description of services Single Counsel may provide for a TEL transaction. With respect to TELs, all references to Seller's counsel in this Guide should be deemed to refer to Single Counsel.

Because Freddie Mac will purchase a TEL only on a negotiated basis, the underwriting and loan structure requirements may vary from one transaction to another. Freddie Mac reserves the right to apply additional or more stringent requirements to any transaction.

a. Origination requirements and the Minimum Origination Fee (09/28/18)

Under the TAH Tax-Exempt Loan Program, the Mortgage must be originated using funds from the origination of the TEL that are used in the financing of targeted affordable housing. Pursuant to this chapter and the Commitment, Freddie Mac will be obligated to purchase the TEL from the Seller/Servicer. Payments made by the Borrower under its mortgage loan documents will be collected by the Seller and paid to Freddie Mac, as owner of the TEL, unless the governmental lender requires the fiscal agent to be the paying agent in the transaction, in which case the Seller will deliver the Borrower's loan payments to the fiscal agent, and the fiscal agent will pay Freddie Mac. The Seller will retain the Servicing Spread and any recurring fees of other parties to the transaction that are payable from monthly collections under the transaction documents.

The Minimum Origination Fee provisions of Section 17.1(f) apply.

b. Eligible Mortgages (09/28/18)

A Mortgage is eligible if it is originated for the purpose of

- New construction
- Acquisition and rehabilitation
- Refinancing through a refunding of existing bonds or an existing TEL

c. Fixed-rate TELs (09/28/18)

Freddie Mac's purchase of a fixed-rate TEL will be governed by the terms of the Commitment issued by Freddie Mac to the Seller.

d. Variable-rate TELs (09/28/18)

Freddie Mac's purchase of a variable-rate TEL will be governed as set forth in Section 25.1(c). In addition, Freddie Mac requires the Borrower to purchase an interest rate cap from an approved provider in accordance with the provisions of Section 25.12(e) of the Guide.

e. Combination financing (09/28/18)

Combination financing is the use, for one Property, of a tax-exempt loan and either a cash Mortgage or a taxable governmental loan. It may be utilized for new tax-exempt debt allocations or for refundings. In a new TEL transaction or a refunding, combination financing may allow placement of total debt that exceeds the available tax-exempt debt allocation.

The Seller must underwrite the TEL and the cash Mortgage or taxable governmental loan as a single financing, secured (in the case of a taxable governmental loan) by a single security instrument or (in the case of a cash Mortgage) by separate security instruments that are cross-defaulted. The Seller must neither consider nor underwrite the cash Mortgage or taxable governmental loan as secondary debt.

The following conditions also apply:

- The taxable portion of the financing must not be more than 25 percent of the total financing.
- The taxable portion must have a term no longer than the TEL and must have accelerated amortization. Until the taxable portion is paid in full, all amounts that would otherwise be deposited into the principal reserve fund or used to amortize the TEL will be applied first to repayment of the taxable portion.
- The combination of both the tax-exempt and taxable portions of the financing will be treated as a single exposure in applying LTV, DCR and the other credit parameters of the applicable tax-exempt product.
- Freddie Mac takes into account the value of the tax-exempt financing in its calculation of the LTV; however, it will not make any adjustment for the taxable portion of the financing.

f. 501(c)(3) loans (09/28/18)

Freddie Mac will purchase tax-exempt 501(c)(3) loans issued on behalf of non-profit corporations that are exempt under Internal Revenue Code Section 501(c)(3). No adjustment to Final Value is permitted for 501(c)(3) loans.

The Seller must complete and submit the 501(c)(3) Due Diligence Checklist to Freddie Mac in the applicable underwriting package.

g. Preservation Rehabilitation for TEL Mortgages (09/28/18)

A Mortgage backing a fixed- or variable-rate TEL with 4% LIHTC is eligible for the Preservation Rehabilitation product, which provides an immediate execution for a Property with newly-issued LIHTC credits and a moderate level of planned renovations. Freddie Mac purchases TELs that finance the entire cost of the anticipated rehabilitation prior to the commencement of rehabilitation.

Freddie Mac defines “Preservation Rehabilitation” as rehabilitation work costing no more than \$60,000 per unit. For a TEL, all work must be completed and the Property must reach stabilization within 24 months of the Origination Date, or if earlier, within the term of the TEL.

The requirements outlined in Section 19.2(e) of the Guide also apply to Preservation Rehabilitation for TEL Mortgages.

h. Additional underwriting requirements for LIHTC support for mixed-income Properties (09/28/18)

LIHTC foreclosure support provides foreclosure protection for LIHTC investors when Freddie Mac is providing the senior debt on a LIHTC mixed-income Property. The support consists of a contractual obligation for Freddie Mac to pay the LIHTC investor, upon completion of a foreclosure action, an amount equal to the notional amount of capital contributed by the LIHTC investor less the benefits received at the time of the change in ownership.

Freddie Mac has no obligation to the tax credit investor(s) in the event that the Property becomes non-compliant for LIHTC and Freddie Mac does not guarantee any benefits lost prior to the foreclosure by the senior lender.

1. Maximum term

The maximum term is at least 10 or 15 years.

2. Fee type

A monthly or quarterly fee is available, based on the notional tax credit equity exposure, amortizing as benefits are received to a pre-established floor.

3. Availability

LIHTC support is available for new LIHTC transactions meeting the mixed-income parameters, including Bond Credit Enhancement Mortgages, TELs and Forward Commitment Mortgages that are TELs.

4. Loan sizing

Loans will not be sized to fully underwrite the rents on units with rents that are markedly above average market rents. There are no additional sizing requirements unique to the LIHTC foreclosure support.

5. Minimum occupancy

The Property must be fully stabilized with qualified low-income tenants.

6. Insurance

A Freddie Mac senior Mortgage must be in place for the term of the insurance.

7. Additional reporting requirements

There are additional reporting requirements for the Borrower, the approved tax credit syndicator and the LIHTC Syndicator as outlined in the LIHTC regulatory agreement.

25.2 Additional underwriting requirements

a. Debt service ratio (09/30/20)

The calculation of the underwritten interest rate is outlined below:

Characteristics	Underwritten Interest Rate
Fixed-rate TEL financing	Fixed rate necessary to repay loan + fee stack
Variable-rate TELs with cap	52-week SIFMA Municipal Swap Index (SIFMA) rate + fee stack + 200 basis points
Taxable Bonds	The then-applicable note index rate + fee stack + 100 basis points; or bond rate plus fee stack, if fixed

b. Vacancy and collection loss rate (09/28/18)

With respect to vacancy and collection loss rates, the requirements of Section 19.2(a)(2) apply.

c. Maximum term and amortization period (09/28/18)

For LIHTC Properties, the maximum term and amortization period is 35 years. For non-LIHTC Properties, the maximum term and amortization period is 30 years.

d. Adjustments to the capitalization rate for a Property with TEL financing (09/28/18)

For a Property with TEL financing, Freddie Mac may adjust the capitalization rate recommended by the appraiser to take into account the value attributable to the below-market interest rate on the proposed Mortgage. The adjusted capitalization rate will not be more than 100 basis points below the market capitalization rate for a conventional property. If there is a taxable component

to the financing, this adjustment will be done proportionately. Freddie Mac does not permit any other adjustments to value based on the Property's entitlement to LIHTC.

e. Additional underwriting requirements for TAH Mortgages with subordinate debt (09/28/18)

Freddie Mac will consider subordinate debt subject to the requirements below. The terms acceptable to Freddie Mac will vary based on the nature of the entity providing the subordinate debt. All subordinate lenders (providing either hard subordinate debt or soft subordinate debt, as defined below) must execute the Freddie Mac form of subordination agreement appropriate to the nature of the entity providing the subordinate debt.

Permitted lenders include Governmental Entities and Nonprofit Entities. If the proposed third-party subordinate debt lender is not a Governmental Entity or a Nonprofit Entity, the Seller/Servicer must contact its Freddie Mac representative.

Freddie Mac distinguishes between two types of subordinate debt, as follows:

- “Hard subordinate debt” is debt that is similar, but junior, to TAH Mortgage debt in payment structure and is secured by a subordinate mortgage on the Property. The subordinate mortgage gives the lender the ability to exercise remedies in the event of a monetary or non-monetary default of the subordinate debt.
- “Soft subordinate debt” is (i) debt for which there is no debt service payable during the term of the TAH Mortgage(s) or (ii) debt that is payable only from available cash flow. The subordinate lender may have the ability to exercise remedies if the borrower incurs a monetary or non-monetary default. Soft subordinate debt may be secured by a subordinate mortgage on the Property.

1. Hard subordinate debt

- The minimum combined amortizing DCR is 1.10x.
- For a subordinate lender that is a Governmental Entity or a Nonprofit Entity, the maximum combined LTV is 100 percent. For a subordinate lender that is not a Governmental Entity or a Nonprofit Entity, the maximum combined LTV is 90 percent.
- Hard subordinate debt must mature at least six months after the maturity date of the last maturing TAH Mortgage.
- Interest on hard subordinate debt may not accrue.

2. Soft subordinate debt

- There is no preset minimum combined DCR or maximum combined LTV.
- Soft subordinate debt must mature at least six months after the maturity date of the last maturing TAH Mortgage.
- Any payment of debt service on soft subordinate debt must not, in the aggregate, exceed 75 percent of surplus cash flow after the payment of operating expenses, Replacement

Reserve contributions, contributions to Reserve accounts (for example, Reserves for taxes and insurance), and debt service on the TAH Mortgage(s).

- Unpaid interest may accrue on a simple interest or compounding basis, at Freddie Mac's discretion.

25.3 General prescreen package requirements (09/28/18)

See Section 25.4 for information regarding the prescreen package, and Section 25.6 for information regarding the content of the full underwriting package.

Instructions for preparing and delivering underwriting packages and remitting any required fees to Freddie Mac are found in Chapter 55. 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.

25.4 Initiating a transaction with Freddie Mac (09/28/18)

To initiate a transaction with Freddie Mac, the Seller must send a quote request to Multifamily TAH Production. After receiving the quote request, Freddie Mac will provide an indication price to the Seller. To continue with the transaction after receiving the indication price, the Seller must prepare the prescreen package. Freddie Mac specifies the list of documents that the Seller must include in the prescreen package in Section 1.25 of Exhibit 1.

Chapter 55 contains a complete description of Freddie Mac's requirements for each document in a prescreen package, including a description of the required content. Contact Multifamily TAH Production for instructions for delivering prescreen packages to Freddie Mac.

The prescreen package must be approved and signed by the Seller's TAH Underwriting Supervisor, as described in Section 3.13.

25.5 Quote

a. Issuance of the quote (09/28/18)

If the Mortgage presented in accordance with Section 25.4 appears to meet the requirements of a TAH TEL, Freddie Mac will, at its option, issue a written Quote and 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, Servicing Spread, Mortgage term, amortization period (if applicable), prepayment terms and indication of the fees and expenses of Single Counsel, as well as other Freddie Mac requirements in response to the information contained in the prescreen package or in the quote request.

b. Indication fees (09/28/18)

Freddie Mac bases the indication fees on preliminary information about the proposed transaction and, in its sole discretion, Freddie Mac may change the indication fees. In the event the proposed transaction is a refunding of a prior bond or tax-exempt loan transaction and requires review and analysis of the existing bond documents by Freddie Mac's outside legal counsel, the Seller will be obligated to pay the fees and expenses of Freddie Mac's outside legal counsel

associated with such review. The Seller must submit the legal fees and expenses certification required by Section 25.8(a).

c. Obligations of the parties (09/28/18)

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

25.6 Full underwriting package (04/30/19)

After Freddie Mac issues a Quote, the Targeted Affordable Housing Seller/Servicer must:

- Deliver a full underwriting package to the Multifamily TAH Underwriter,
- Obtain wire instructions from the Multifamily TAH Underwriter, and
- Submit an application fee to the attention of *Multifamily Cash Management*

Freddie Mac specifies the list of documents that the Seller must include in the full underwriting package sent to Freddie Mac in Section 1.29 of Exhibit 1, which applies to Mortgages originated under the TAH TEL Program.

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.

The full underwriting package must be approved and signed by the Seller's TAH Underwriting Supervisor, as described in Section 3.13.

25.7 Commitment (09/28/18)

The Commitment represents Freddie Mac's offer to purchase a TEL with respect to the proposed Mortgage.

a. Issuance of the Commitment (09/28/18)

After the Seller submits a full underwriting package meeting the requirements of Section 25.6, Freddie Mac will determine if the Mortgage is acceptable.

If the contemplated Mortgage is acceptable, Freddie Mac will issue a Commitment, which will state

1. The maximum Mortgage amount
2. For a fixed-rate Mortgage, the maximum annual debt service (consisting of interest plus either scheduled principal payments or scheduled deposits to a principal reserve fund plus the Servicing Spread and the other related fees)
3. The loan term

4. The amortization period or the period used to determine scheduled deposits to a principal reserve fund (as applicable)
5. The Servicing Spread
6. The maximum Mortgage interest rate
7. All additional conditions that must be satisfied before Freddie Mac will be obligated to purchase the TEL

The Commitment is valid for the period of time stated in the Commitment. If the Seller fails to accept the Commitment offer within the stated time period, the Commitment will automatically expire, and Freddie Mac will not be obligated to purchase the TEL with respect to the Mortgage under any conditions.

b. Seller acceptance (09/28/18)

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

The Commitment may require that the Seller provide a specified Commitment Fee. If the Commitment requires a Commitment Fee, the Seller also must ensure that the Multifamily TAH Underwriter receives the Commitment Fee by the close of business on the next Business Day following the Seller's acceptance of the Commitment. The Commitment will indicate the conditions under which the Commitment Fee will be refunded to the Seller.

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

25.8 Freddie Mac's fees and certification regarding payment of fees and expenses for Single Counsel (09/28/18)

The Seller must pay, or must require the Borrower to pay, the fees of Single Counsel, as described below, at or before the TEL closing.

1. Freddie Mac engages Single Counsel to jointly represent Freddie Mac and the Seller in connection with the TEL transaction. Such representation may include the following services:
 - a. Review of and advice regarding any existing loan/bond documents
 - b. Advice concerning structure of the proposed transaction
 - c. Assistance in negotiations with the other parties to the proposed transaction
 - d. Participation in telephone calls related to the proposed transaction
 - e. Preparation of documents related to the proposed transaction
 - f. Review of documents prepared by other parties

and the certification to Freddie Mac. The Certification Regarding Payment of Fees and Expenses of Freddie Mac's Outside Legal Counsel form is available via FreddieMac.com.

5. The Seller may, at its option, obtain from the Borrower the additional funds with which to pay or reimburse the fees and expenses of Single Counsel. The Seller is obligated to pay the fees and expenses of Single Counsel or, to reimburse Freddie Mac for such fees upon written notification from Freddie Mac that such sums are due, regardless of whether the Seller obtains the deposit or the balance of such funds from the Borrower or is successful in obtaining such funds at a later date.

Prior to submitting the Certification Regarding Payment of Fees and Expenses of Single Counsel to Freddie Mac, the Seller must obtain from Freddie Mac the loan number, the fee of Single Counsel and the amount of the deposit. Freddie Mac will determine the fee for Single Counsel and the size of the deposit.

25.9 Final delivery (09/28/18)

See Chapter 32.

25.10 Loan documents (09/28/18)

The loan documents must contain the following provisions, which must remain in effect as long as the TEL is in existence.

a. Third party fees and costs (09/28/18)

Freddie Mac must have no liability for

1. Issuance costs relating to the TEL
2. Negative arbitrage or investment losses with respect to amounts on deposit in funds or accounts held under the funding loan agreement
3. Prepayment premiums payable to the holder(s) of any loan or bonds being refunded, or
4. Any other fees, costs or expenses (other than during any period in which Freddie Mac is the owner of the Property following foreclosure or deed-in-lieu of foreclosure or similar disposition).

b. Mortgage Servicing (09/28/18)

The funding loan agreement and project loan agreement must acknowledge that, notwithstanding the fiscal agent's beneficial ownership of the Mortgage, the fiscal agent has no authority to direct or control the Servicing of the Mortgage or to replace the Servicer and that Freddie Mac has the sole authority to

- Direct and control Servicing of the Mortgage and
- Replace the Servicer of the Mortgage.

c. Responsibilities of the Seller (09/28/18)

The Seller must notify Freddie Mac of any direction regarding Servicing that the Seller receives from the fiscal agent. The Seller must respond to such direction as instructed by Freddie Mac.

Where the loan documents provide for any rights to be exercised by the Seller, the Seller must consult with Freddie Mac prior to exercising any right except to the extent that Freddie Mac has delegated to the Seller the power to exercise that right without prior notification and direction.

Unless directed by Freddie Mac, the Seller must not

1. Exercise any remedy or declare any default under any Mortgage Document or any other document associated with the transaction
2. Waive any of Freddie Mac's rights under any Mortgage Document or any document associated with the transaction
3. Consent to any action under any Mortgage Document or any document associated with the transaction
4. Modify or amend any Mortgage Document or any document associated with the transaction

d. Event of taxability (09/28/18)

The occurrence of an event that results in the interest payable on the governmental note being includable in the gross income of the note holder for federal income tax purposes, including any violation of the regulatory agreement or any of the loan documents, may not

1. Constitute a default under the funding loan agreement,
2. Permit or require a mandatory prepayment of the governmental note, except if the governmental note bears interest at a fixed-rate,
3. Give rise to the payment to the holder of the governmental note of any supplemental interest, liquidated damages, or other amount, or
4. Give rise to any right on the part of the governmental issuer or the fiscal agent to exercise or direct the exercise of any remedies under any Mortgage Document.

e. Information and notices from fiscal agent (09/28/18)

The fiscal agent must provide the following information:

- To Freddie Mac and the Seller, prompt notice of all defaults and events of default that occur under the funding loan agreement or the project loan agreement
- To Freddie Mac, within five Business Days after Freddie Mac's request, any information received by the fiscal agent under the funding loan agreement or the project loan agreement

f. Other provisions (09/28/18)

Freddie Mac reserves the right to require that additional provisions be included in the loan documents or to decline to approve individual provisions of the loan documents.

g. Loan-related default provisions (09/28/18)

The loan documents must provide that, at Freddie Mac's option, any of the following will constitute a default under the Mortgage:

- Any default by the Borrower under the regulatory agreement, the project loan agreement or any of the other loan documents, including any interest rate cap agreement or swap agreement
- Any default under the continuing covenant agreement, the funding loan agreement or the governmental note

25.11 Additional loan document requirements for fixed-rate TELs (09/28/18)

Freddie Mac will approve the loan documents for a fixed-rate TEL only if the loan documents satisfy the following requirements, in addition to those in Section 25.10 of this chapter.

Mandatory payment of principal on the governmental note must be required under the following circumstances:

- In whole or in part, upon prepayment of the Mortgage
- In part, based upon an amortization or sinking fund schedule approved by Freddie Mac

25.12 Additional loan document requirements for a variable-rate loan (09/28/18)

Freddie Mac will approve the loan documents for a variable-rate TEL only if such documents and all parties to them satisfy the following requirements in addition to those in Section 25.10.

a. Note interest rate (09/28/18)

The governmental note must bear interest at a variable rate of interest determined as a fixed spread over an agreed-upon floating interest rate index in accordance with the terms of the loan documents.

b. Continuing covenant agreement (09/28/18)

Contemporaneously with the issuance of the tax-exempt governmental note, the Borrower must enter into a continuing covenant agreement with the Seller, to be assigned to Freddie Mac at the time of Freddie Mac's purchase of the TEL, which must memorialize the Borrower's representations, warranties and covenants regarding its ownership and operation of the Property during the term of the loan.

c. Mandatory prepayment provisions (09/28/18)

The loan documents for a variable-rate TEL must require mandatory prepayment of the governmental note under the following circumstances:

1. In whole or in part, upon any prepayment of the Mortgage
2. In whole or in part, at the direction of Freddie Mac, upon the occurrence of an event of default under the continuing covenant agreement
3. In part, in accordance with the amortization schedule

d. Other provisions (09/28/18)

Freddie Mac reserves the right to require that additional provisions be included, or to decline to approve other provisions of the variable-rate loan documents.

e. Interest rate cap agreement (09/30/20)

Contemporaneously with the issuance of a variable-rate TEL, the Borrower must enter into an interest rate cap agreement with a provider that is on Freddie Mac's approved list (see the Multifamily Approved Counterparty List, available via FreddieMac.com) and that agrees to execute Freddie Mac's approved documentation:

1. The interest rate cap agreement must obligate the cap provider to make monthly payments in an amount equal to the excess, if any, of interest at the variable interest rate on the notional principal amount at the specified interest cap rate (the "strike rate").
2. The initial notional principal amount under the interest rate cap agreement must be no less than the unpaid principal balance (UPB) of the Mortgage on the date the TEL is issued. At the beginning of a subsequent interest rate cap, the notional principal amount may be reduced by the amount of any reductions in the UPB of the Mortgage.
3. The variable interest rate for a cap may be either (i) the SIFMA Municipal Swap Index Rate (SIFMA) or (ii) a percentage of the then-applicable note index, as such percentage is determined by Freddie Mac, from time to time, to most closely approximate SIFMA.
4. The interest rate cap agreement must obligate the cap provider to post collateral as security for its obligations if its credit rating drops below a level specified in the cap agreement.
5. The expiration of the cap agreement must be no earlier than five years after issuance of the TEL. During the term of the agreement, the Borrower must make monthly deposits to a cap fee Reserve projected to be sufficient to accumulate, by the expiration date of the agreement, enough funds to equal 125 percent of the cost of a renewal, extension or replacement of the interest rate cap agreement at a strike rate not to exceed the strike rate set forth in the continuing covenant agreement.
6. Any fee payable by the Borrower to the cap provider must be paid in full upon execution of the cap agreement.

f. Assignment of interest rate cap agreement (09/28/18)

The Seller must assign to Freddie Mac its security interest in any interest rate cap agreement, by means of an assignment acceptable to Freddie Mac. The assignment must permit Freddie Mac, at any time, to demand that the cap provider make payments under the interest rate cap agreement to the Seller or to Freddie Mac instead of the Borrower or the fiscal agent.

g. Interest rate computation (09/28/18)

So long as the TEL bears interest at a variable rate, the Mortgage interest rate must be computed on the basis of a 365- or 366-day year, as applicable, for the actual number of days in the month. During any period when the loan bears a fixed rate of interest to maturity, interest must be computed on the basis of a 360-day year and may accrue on the basis of either twelve 30-day months or the actual number of days in each month, depending on the transaction.

h. Monthly payment billing (09/28/18)

The loan documents will require the Seller to inform the Borrower monthly of the Seller's most recent monthly calculation of the amounts due from the Borrower under the Mortgage.

i. Relationship of Mortgage payment and cap payments (09/28/18)

The loan documents must provide that, if Freddie Mac has directed the interest rate cap provider to make payments under the interest rate cap agreement to Freddie Mac or to the Seller, the obligation of the interest rate cap provider to make those payments will not relieve the Borrower of its obligation to make all payments due under the Mortgage, except to the extent of payments actually made by the cap provider.

j. Cap provider (09/28/18)

At the time of acquisition of the cap, and based on the term of the cap, the provider must be listed on the Approved Counterparties List, published on FreddieMac.com. If the cap provider is not currently approved, the Seller must provide Freddie Mac with a completed Counterparty Approval Request, available on FreddieMac.com.

Unless the Seller has obtained Freddie Mac's prior written approval, the following cap providers are not permitted:

- The Seller or Affiliated Persons of the Seller/Service in connection with a Mortgage originated or serviced by the Seller, or
- Affiliates of the Borrower.

Freddie Mac may withdraw approval of the cap provider at any time for any reason.

The cap provider must maintain the rating required by Freddie Mac in the governing transaction documents (for example, the interest rate cap agreement) throughout the term of the cap.

25.13 Reserved (09/28/18)

25.14 Freddie Mac's review and approval

a. Prior review of loan documents and structure (09/28/18)

1. Freddie Mac and Freddie Mac's counsel must approve the structure and documentation for the TEL before the loan is made and the Mortgage is originated.
2. The Security Instrument must be prepared using the Freddie Mac Multifamily Loan Documents for the State where the Property is located, modified as necessary to reflect the terms of the loan transaction. Freddie Mac's counsel will provide suggested forms for
 - A project loan agreement among the governmental lender, the fiscal agent and the Borrower,
 - A project note made by the Borrower and payable to the order of the governmental lender,
 - A funding loan agreement securing the governmental note, and
 - The tax-exempt governmental note.

The parties are not required to use Freddie Mac's suggested forms for these documents, provided that such forms may include such changes as may be approved by Freddie Mac and Freddie Mac's counsel.

b. Bond and counsel opinion (09/28/18)

Prior to its purchase of the TEL, Freddie Mac must receive an unqualified opinion, satisfactory to Freddie Mac, from a nationally recognized bond counsel as to

- The authorization and valid issuance of the tax-exempt note
- The validity of the lien of the funding loan agreement
- The excludability from gross income, for federal income tax purposes, of the interest payable on the tax-exempt note
- Freddie Mac's right to rely upon the opinion, or alternatively, a reliance letter addressed to Freddie Mac giving Freddie Mac the right to rely upon the opinion of the bond counsel

25.15 UCC continuation and termination statements (09/28/18)

The Seller's responsibility for filing UCC (Uniform Commercial Code) continuation and termination statements applies only to financing statements under which Freddie Mac is the secured party, and does not apply to financing statements under which the governmental lender or the fiscal agent is the only secured party. With respect to any financing statement under which Freddie Mac is the secured party, the Seller must not file a termination statement until the obligations of the governmental lender under the tax-exempt note have terminated and all obligations of the Borrower under the project note and the project loan agreement have been satisfied. See Section 29.4 and the Final Delivery Instructions found on FreddieMac.com for further information about UCC financing statements.

25.16 General Servicing policy for TELs (09/28/18)

Unless otherwise stated in the Commitment or this chapter, the Servicing of each TEL must meet the requirements of Chapters 36 and 38 through 43.

a. Servicing Spread (09/28/18)

The monthly Servicing Spread will be the servicing fee stated in the Commitment. The servicing fee is included in interest payable under the project note and the project loan agreement. The Servicer will earn the servicing fee when it collects the Borrower's payments of interest payable under the project note and the project loan agreement.

b. Late fees (09/28/18)

The Seller will not be entitled to any share of the late charges.

c. Subordinate financing, partial release, condemnation or easement (09/28/18)

Any required submission from the Seller to Freddie Mac regarding a proposed subordinate financing, partial release, condemnation or easement must include a summary of any applicable provisions of the documents associated with the loan transaction.

d. Advance notice of prepayment (09/28/18)

The Servicer must forward a copy of any advance notice of prepayment to the fiscal agent at the same time that the Seller forwards that notice to Multifamily Loan Accounting.

e. Evasion of prepayment restrictions (04/30/19)

The Servicer must notify the fiscal agent and *Multifamily Asset Management, Loan Accounting* of any attempt by the Borrower to avoid the prepayment restrictions.

25.17 Billing and collections (09/28/18)

The Servicer must diligently attempt to collect the amounts described in this section, at the times they are due and payable under the loan documents and the interest rate cap agreement.

a. Borrower payments (09/28/18)

The Servicer must collect Borrower payments due under the project note and project loan agreement according to these procedures:

1. Three Business Days before the first Business Day of each month, the Servicer must compute and notify the Borrower of the amounts payable by the Borrower to the Servicer no later than two Business Days before the first Business Day of the month in order to (i) pay to Freddie Mac all amounts due under the governmental note, (ii) pay to the Servicer the monthly servicing fee, and (iii) pay to the governmental lender and the fiscal agent their respective monthly fees, all of such payments being due on the first Business Day of the following month.

2. The Servicer must invoice the Borrower and the Borrower must pay (i) interest accrued for those days of the month for which the Servicer knows the mortgage rate and (ii) the last known rate (plus such other amount as required under the project loan agreement and the funding loan agreement) for those days of the month, if any, for which the Servicer does not know the rate.
3. If the amount invoiced by the Servicer and paid by the Borrower is greater than the actual interest that actually accrued, the Servicer must credit the excess amount against the sums due for the following monthly payment.
4. If the amount invoiced by the Servicer and paid by the Borrower is less than the accrued interest, the Servicer must send the Borrower a revised invoice that requires the Borrower to pay such deficiency within one Business Day of receipt of the revised invoice.

Notwithstanding the foregoing, in the event the Servicer wishes to avoid the estimated billing procedures and billing timing requirements set forth in this section, the Servicer may initiate the use of alternative billing procedures that do not require the estimation of any interest rates, provided that: (a) prior to instituting such alternate billing procedures, the Servicer shall have notified the Borrower in writing of its desire to forego such procedures pursuant to a notice substantially identical to the notice set forth in Form 1063, Notice Letter – Alternative CE Bond Billing Procedure; (b) the Borrower shall have consented to the institution of the alternate billing procedures described in such notice; and (c) the Servicer shall comply with the alternate billing procedures described in such notice; and (d) all of the Servicer's future remittances of principal, interest and fees to Freddie Mac (or the fiscal agent, if the fiscal agent is the paying agent) are received by Freddie Mac (or the fiscal agent) on or before the first Business Day of the month on which such funds are due, regardless of the date of the billing statement prepared by the Servicer or the date of the Servicer's delivery of such billing statement to the Borrower.

b. Cap payments (09/28/18)

The Servicer must collect all cap payments according to these procedures:

1. Three Business Days before the first Business Day of the month, the Servicer must compute the amount of the payment, if any, that the cap provider is obligated to make for the current month.
2. The Servicer must notify the Borrower of both (i) the full amount of the cap payment, if any, that will be due to the Servicer two Business Days before the first Business Day of the month and (ii) if a cap payment is due from the cap provider, the portion of the full payment due under the project note and the project loan agreement that will be due from the Borrower if the cap provider makes the required payment under the interest rate cap agreement on a timely basis.
3. The Servicer must apply each payment it receives from the cap provider to the amount due to Freddie Mac under the tax-exempt governmental note.
4. If the Borrower agrees, the Servicer may collect the full amount payable under the project note and the project loan agreement from the Borrower and remit to the Borrower any corresponding amount the Servicer receives from the cap provider.

c. Other amounts (09/28/18)

The Servicer must diligently attempt to collect all of the following, at the times they are due and payable under the loan documents:

1. Any monthly amortization payment
2. Any monthly replacement reserve deposit
3. Any monthly Reserve deposits required by the loan documents for taxes and insurance premiums
4. Any other Reserve deposits required by the loan documents

25.18 Cap fee Reserves (09/28/18)

Unless otherwise stated, the Reserves for each TEL must meet the requirements of Chapter 52.

a. Deposits to cap fee Reserves (09/28/18)

The Servicer must deposit the following in the cap fee Reserve, to the extent received from the Borrower:

1. Any initial deposit to the cap fee Reserve required by the continuing covenant agreement
2. The monthly deposit that the Borrower is required to make under the continuing covenant agreement for the purpose of accumulating funds sufficient to cover 125 percent of the projected cost of a renewal, extension or replacement of an interest rate cap agreement prior to the expiration date of the existing interest rate hedge agreement
 - a. Upon loan closing, the Servicer will calculate the initial monthly cap Reserve payment based on the purchase price of the rate cap agreement and inform the Borrower of that amount.
 - b. Within 10 days of loan closing, the Servicer must complete the information on the first page of the Kensington Cap Escrow Adjustment Form and submit the form to Kensington Capital Advisors LLC (“Kensington”) at capinfo@kensington-advisors.com, together with the pertinent pages governing the cap fee Reserve from the continuing covenant agreement. The Kensington Cap Escrow Adjustment Form is available at freddiemac.com.
 - c. Thirty days prior to the due date of each cap fee Reserve adjustment, Kensington will provide each Servicer with a list of TELs requiring review of the cap fee Reserve deposits. Upon receipt of the list of TELs, the Servicer must provide Kensington with the outstanding notional balance of the existing cap and the cap fee Reserve balance for each of the loans on the list. Kensington will determine the new monthly cap fee Reserve payment and return the completed Kensington Cap Escrow Adjustment Form to the Servicer. The Servicer must review and sign the completed Kensington Cap Escrow Adjustment Form indicating its approval.

- d. The Servicer must notify the Borrower of the amount of the new monthly deposit for the cap fee Reserve.
- e. With respect to each subsequent cap fee Reserve adjustment, the Servicer must provide Kensington not less than 15 days prior to the date of which the cap fee Reserve will be adjusted, (i) the then notional amount of the cap and (ii) the then current balance in the cap fee Reserve.
- f. Kensington will calculate the adjusted cap fee Reserve amount and submit it to the Servicer. The Servicer must review and approve all subsequent adjustments to cap fee Reserve payments required under the continuing covenant agreement in the manner set forth in this section and in accordance with the terms of the continuing covenant agreement.

Freddie Mac reserves the right, after notice to the Servicer, to require the Servicer to obtain Freddie Mac's approval for all cap fee Reserve adjustments for a Mortgage. This notification may be via e-mail from Freddie Mac's *Multifamily Asset Management* representative.

The Servicer will not have the authority to modify, waive any term of, or release the cap fee Reserve Custodial Account or cap agreement or any other Mortgage Document executed in connection with any TEL without written authorization from Freddie Mac.

b. Investment of cap fee Reserve (09/28/18)

The Servicer may invest amounts in the cap fee Reserve only in the following:

1. Direct obligations of the U.S. Government, the Federal Home Loan Bank, Freddie Mac, Fannie Mae or the Federal Farm Credit Bank
2. Certificates of deposit that are fully insured by the Federal Deposit Insurance Corporation
3. Obligations, the interest on which is excludable from gross income for federal income tax purposes, with a "Moody's Investment Grade One" rating, or bonds, the interest on which is excludable from gross income for purposes of federal income taxation, that are rated not lower than "Aa" or "AA" by either Moody's Investors Service (Moody's) or Standard & Poor's Ratings Group (S&P) or by both if ratings from both agencies have been obtained. The Servicer may purchase no more than ten percent of the total issue of any such obligations and must select issues of at least \$20 million in total issue size
4. Commercial paper with a rating of at least "A-1" by S&P and at least "P-1" by Moody's
5. Corporate notes and bonds with a rating of at least "AA" from Moody's and S&P
6. Shares or other interests in mutual funds that invest exclusively in any of the categories of investments described in paragraphs (1) through (5) above

Each of the above must have a maturity not later than the earlier of (i) six months from the date of investment or (ii) the date on which such money is required.

c. Liquidation of investments (09/28/18)

The Servicer must not liquidate any instrument in which it has invested funds in the cap fee Reserve prior to that instrument's maturity unless the Servicer has received Freddie Mac's prior written approval.

d. Disposition of investment earnings (09/28/18)

If the Borrower is not in default under any document associated with the loan transaction, the Servicer may remit interest earnings received from investment of amounts in the cap fee Reserve to the Borrower in the manner provided in the continuing covenant agreement.

e. Investment losses (09/28/18)

If the Servicer's investment of amounts in the cap fee Reserve complies with this section, the Servicer will not be responsible to Freddie Mac for losses from such investments. Should a loss occur from any of the above investments, the Servicer must diligently seek to recover these losses from the Borrower to the extent the loan documents require the Borrower to replenish such losses.

The Servicer may not commingle amounts in the cap fee Reserve with any other Reserves relating to the Property.

25.19 Application of payments (09/28/18)

Unless otherwise stated, the application of payments for each TEL must meet the requirements of Chapter 53.

a. Application of payments under the project loan agreement (09/28/18)

The Servicer must apply all payments received under the project loan agreement in the following order unless otherwise instructed by Freddie Mac:

1. To the Servicing fee
2. To the fiscal agent's and the governmental lender's fees
3. To prepayment premiums
4. To required deposits to the cap fee Reserve
5. To required deposits to the Replacement Reserve
6. To required Reserve deposits
7. To Freddie Mac (or the fiscal agent, as applicable), all amounts then due under the governmental note
8. To default interest
9. To other amounts due under the continuing covenant agreement

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b. Reserved (09/28/18)

25.20 Remittances (09/28/18)

Unless otherwise stated, remittances for each TEL must meet the requirements of Chapter 53.

So long as the governmental note is unpaid and in effect, the Servicer must remit, deposit or retain the funds collected under the loan documents, the continuing covenant agreement and the interest rate cap agreement in accordance with this section.

On the second Business Day after the Servicer receives any payments due to Freddie Mac under the loan documents, the continuing covenant agreement and/or the interest rate cap agreement, the Servicer must remit such payments to Freddie Mac via the telephonic cash remittance system, as described in Section 53.7.

The Servicer must make any remittance to the fiscal agent by wire transfer in accordance with instructions received from the fiscal agent.

The Servicer must remit any issuer or fiscal agent fee component payable as provided in the funding loan agreement.

The Servicer must retain any payments or deposits required for the cap fee Reserve, the Replacement Reserve and any other applicable Reserves for deposit into the appropriate Custodial Account.

The Servicer may retain the servicing fee.

25.21 Accounting (09/28/18)

Unless otherwise stated, accounting for each TEL must meet the requirements of Chapter 54.

a. Partial payments (09/28/18)

In the event of a partial payment entailing a shortfall of over \$15 in an amount due to be remitted to Freddie Mac, the Servicer must notify Multifamily Loan Accounting of the shortfall. On the applicable remittance date, the Servicer must remit the partial payment to Freddie Mac, rather than holding the partial payment in suspense or escrow.

b. Mortgage payoff quotes (09/28/18)

If the Servicer receives a request for a payoff amount, the Servicer must

- Notify the fiscal agent of all Borrower requests for a quote of a payoff amount or prepayment premium for the Mortgage
- Request a copy of any such quote from the fiscal agent
- Notify Multifamily Loan Accounting Payoffs of the Borrower's request

The Servicer shall not consent to a prepayment of the Mortgage without Freddie Mac's prior written consent.

c. Payoff quotes (09/28/18)

The Servicer must respond to any Borrower request for a quote of amounts due with respect to a TEL in the same manner as a request for a quote of amounts due under a Mortgage purchased by Freddie Mac under the Multifamily Conventional Cash Mortgage Purchase Program.

d. Prepayment/substitution premium quotes (09/28/18)

The Servicer must confirm with Multifamily Loan Accounting Payoffs the calculation of any prepayment premium before quoting it to the Borrower.

e. Variable-rate interest calculations (09/28/18)

During any period when interest on the governmental note, and therefore interest on the Mortgage, is computed on a variable-rate basis, the Servicer must compute such interest for a full month, based on actual days and a 365/366-day year as provided in the funding loan agreement.

25.22 Reporting (09/28/18)

Unless otherwise stated, reporting for each TEL must meet the requirements of Chapter 54.

a. Loan-level transactions (09/28/18)

1. For Borrower payments received prior to the 10th day of the month, the Servicer's report of loan-level transactions must reach Freddie Mac no later than the 10th day of the month in which the Servicer receives any payment by or on behalf of the Borrower under the project loan agreement or the interest rate cap agreement. If no payments are received, the Servicer's report must reach Freddie Mac not later than the third Business Day after the 15th day of the month. Each report of a loan-level transaction must include the following:

- Reductions in the UPB of the Mortgage since the previous month's accounting cut-off date
- Interest paid on the governmental note since the previous month's accounting cut-off date
- Any other amounts collected by the Servicer in connection with the transaction

The Servicer's report may be based upon information received from the fiscal agent.

2. For Borrower payments received on or after the 10th day of the month, the Servicer's report of loan-level transactions must reach Freddie Mac not later than the third Business Day after the Servicer receives any payment by or on behalf of the Borrower under the project loan agreement or the interest rate cap agreement. If no payments are received, the Servicer's report must reach Freddie Mac not later than the third Business Day after the 15th day of the month. Each report of a loan-level transaction must include the following:

- Reductions in the UPB of the Mortgage since the previous month's accounting cut-off date
- Interest paid on the governmental note since the previous month's accounting cut-off date
- Any other amounts collected by the Servicer in connection with the transaction

The Servicer's report may be based upon information received from the fiscal agent.

b. Other amounts (09/28/18)

The Servicer must report, as instructed by Freddie Mac, all other amounts remitted by the Servicer that cannot be reported as part of a loan-level transaction.

c. Principal reporting errors (09/28/18)

If the Servicer erroneously reports a principal reduction, the Servicer must notify Multifamily Loan Accounting and request instructions on how to correct the error.

25.23 Mortgage interest rate (09/28/18)

Freddie Mac will be obligated to purchase the TEL only if both of the following conditions are satisfied:

- The loan documents require the Borrower to pay:
 - All principal and interest due under the project note, the project loan agreement and the continuing covenant agreement
 - The interest rate on the governmental note
 - The Servicing Spread
 - Deposits to the cap fee Reserve, if applicable
 - Any recurring fees of other parties to the transaction (such as the fiscal agent and the governmental lender)
- The Mortgage interest rate does not exceed the maximum Mortgage interest rate specified in the Commitment

25.24 Regulatory agreement compliance monitoring (04/30/19)

The Servicer must:

1. Obtain a copy of any quarterly, annual or other periodic certificate of compliance with the regulatory agreement or other evidence of compliance submitted by the Borrower to the governmental lender or its designee

2. With its annual risk assessment, submit to *Multifamily Asset Management, Asset Performance and Compliance* a copy of this evidence of compliance with the regulatory agreement
3. If no annual risk assessment is required by Freddie Mac, provide *Multifamily Asset Management, Asset Performance and Compliance* with a copy of evidence of compliance with the regulatory agreement within 30 days after the later of (i) the date by which the Borrower is required to submit the evidence of compliance to the governmental lender or its designee or (ii) the date on which the Borrower actually submits the evidence to the governmental lender or its designee
4. Take any other steps that Freddie Mac directs to verify the Borrower's compliance with the regulatory agreement