

# Multifamily Seller/Service Guide

## Chapter 28

### Originating a Targeted Affordable Housing Bond Credit Enhancement Mortgage



- 28.1 [Overview \(12/14/23\)](#)
  - a. [Origination requirements and the Minimum Origination Fee \(04/15/21\)](#)
  - b. [Eligible Mortgages \(03/31/11\)](#)
  - c. [Fixed-rate Mortgages \(03/31/11\)](#)
  - d. [Variable-rate Mortgages \(03/03/14\)](#)
  - e. [Combination financing \(12/16/15\)](#)
  - f. [501\(c\)\(3\) bonds \(12/16/15\)](#)
  - g. [Preservation Rehabilitation for bond credit enhancement Mortgages \(09/28/18\)](#)
  - h. [LIHTC support for mixed-income Properties \(06/15/23\)](#)
  
- 28.2 [Additional underwriting requirements \(10/21/21\)](#)
  - a. [Debt service ratio \(09/30/20\)](#)
  - b. [Vacancy and collection loss rate \(05/05/17\)](#)
  - c. [Maximum term and amortization period \(12/16/15\)](#)
  - d. [Adjustments to the capitalization rate for a Property with tax-exempt bond financing \(12/16/15\)](#)
  - e. [Additional underwriting requirements for TAH Mortgages with subordinate debt \(10/21/21\)](#)
  
- 28.3 [General prescreen package requirements \(02/28/13\)](#)
  
- 28.4 [Initiating a transaction with Freddie Mac \(07/01/14\)](#)
  
- 28.5 [Quote \(05/31/11\)](#)
  - a. [Issuance of the quote \(05/31/11\)](#)
  - b. [Indication fees \(03/31/11\)](#)
  - c. [Obligations of the parties \(03/31/11\)](#)
  
- 28.6 [Full underwriting package \(04/30/19\)](#)
  
- 28.7 [Commitment \(05/31/11\)](#)
  - a. [Issuance of the Commitment \(05/31/11\)](#)
  - b. [Seller acceptance \(05/31/11\)](#)
  
- 28.8 [Freddie Mac's fees \(03/03/14\)](#)
  - a. [Credit facility fee \(03/31/11\)](#)
  - b. [Liquidity facility fee \(03/31/11\)](#)
  - c. [Reserved \(03/03/14\)](#)
  - d. [Fees and certification regarding payment of fees and expenses for Freddie Mac's outside counsel \(02/29/12\)](#)
  
- 28.9 [Final delivery \(03/31/11\)](#)
  
- 28.10 [Bond documents \(05/01/14\)](#)
  - a. [Third party fees and costs \(02/29/12\)](#)
  - b. [Mortgage servicing \(03/31/11\)](#)



- c. [Responsibilities of the Seller \(03/31/11\)](#)
  - d. [Event of taxability \(03/31/11\)](#)
  - e. [Information and notices from bond trustee \(03/31/11\)](#)
  - f. [Other provisions \(03/31/11\)](#)
  - g. [Bond-related default provisions \(05/01/14\)](#)
  - h. [Payments of principal and interest under the Note \(03/31/11\)](#)
- 28.11 [Additional bond document requirements for fixed-rate bonds \(05/31/11\)](#)
- a. [Mandatory redemption \(03/31/11\)](#)
  - b. [Terms of the bond credit enhancement agreement \(05/31/11\)](#)
- 28.12 [Additional bond document requirements for variable-rate bonds \(04/13/23\)](#)
- a. [Bond interest rate \(03/31/11\)](#)
  - b. [Remarketing \(03/31/11\)](#)
  - c. [Principal reserve fund \(04/13/23\)](#)
  - d. [Information from bond trustee \(03/31/11\)](#)
  - e. [Terms of the bond credit enhancement agreement \(05/31/11\)](#)
  - f. [Reimbursement and security agreement \(03/31/11\)](#)
  - g. [Pledge agreement \(03/31/11\)](#)
  - h. [Mandatory redemption provisions \(05/31/11\)](#)
  - i. [Substitute credit facility \(03/31/11\)](#)
  - j. [Other provisions \(03/31/11\)](#)
  - k. [Interest rate hedge agreement \(09/30/20\)](#)
  - l. [Assignment of interest rate hedge agreement \(03/31/11\)](#)
  - m. [Interest rate computation \(03/31/11\)](#)
  - n. [Liquidity use fee \(03/31/11\)](#)
  - o. [Monthly payment billing \(03/31/11\)](#)
  - p. [Relationship of Mortgage payment and cap payments \(05/01/14\)](#)
  - q. [Cap provider \(12/12/14\)](#)
- 28.13 [Disclosure \(03/31/11\)](#)
- a. [Official statement \(03/31/11\)](#)
  - b. [Securities and Exchange Commission Rule 15c2-12 \(03/31/11\)](#)
- 28.14 [Freddie Mac's review and approval \(02/29/12\)](#)
- a. [Prior review of bond documents and structure \(02/29/12\)](#)
  - b. [Bond rating and bond opinion \(02/29/12\)](#)
- 28.15 [UCC continuation and termination statements \(05/01/14\)](#)
- 28.16 [General Servicing policy for bond credit enhancements \(04/30/19\)](#)
- a. [Servicing Spread \(03/31/11\)](#)
  - b. [Late fees \(03/31/11\)](#)
  - c. [Subordinate financing, partial release, condemnation or easement \(03/31/11\)](#)
  - d. [Advance notice of prepayment \(03/31/11\)](#)
  - e. [Evasion of prepayment restrictions \(04/30/19\)](#)
  - f. [Notice of principal reductions \(03/31/11\)](#)



- 28.17 [Billing and collections \(07/01/14\)](#)
  - a. [Reimbursements \(07/31/12\)](#)
  - b. [Cap payments \(03/31/11\)](#)
  - c. [Liquidity reimbursements \(03/31/11\)](#)
  - d. [Prepayments \(03/31/11\)](#)
  - e. [Other amounts \(07/01/14\)](#)
  
- 28.18 [Cap fee Reserves \(02/28/18\)](#)
  - a. [Deposits to cap fee Reserves \(02/28/18\)](#)
  - b. [Investment of cap fee Reserve \(10/31/12\)](#)
  - c. [Liquidation of investments \(10/31/12\)](#)
  - d. [Disposition of investment earnings \(07/01/14\)](#)
  - e. [Investment losses \(05/01/14\)](#)
  
- 28.19 [Application of payments \(10/31/12\)](#)
  - a. [Application of payments under reimbursement and security agreement \(10/31/12\)](#)
  - b. [Application of payments under reimbursement and security agreement \(03/31/11\)](#)
  
- 28.20 [Remittances \(06/12/23\)](#)
  
- 28.21 [Accounting \(10/31/12\)](#)
  - a. [Partial payments \(10/31/12\)](#)
  - b. [Mortgage payoff quotes \(03/31/11\)](#)
  - c. [Reimbursement and security agreement payoff quotes \(03/31/11\)](#)
  - d. [Prepayment/substitution premium quotes \(03/31/11\)](#)
  - e. [Variable-rate interest calculations \(03/31/11\)](#)
  
- 28.22 [Reporting \(03/31/11\)](#)
  - a. [Loan-level transactions \(03/31/11\)](#)
  - b. [Other amounts \(03/31/11\)](#)
  - c. [Principal reporting errors \(03/31/11\)](#)
  
- 28.23 [Mortgage interest rate \(03/03/14\)](#)
  
- 28.24 [Regulatory agreement compliance monitoring \(04/30/19\)](#)



## 28.1 Overview (12/14/23)

The Targeted Affordable Housing (TAH) Bond Credit Enhancement Program utilizing the prior approval model provides credit enhancement for tax-exempt or taxable bonds where the bond proceeds are used in the financing of targeted affordable housing. The bonds 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/Serviceers.

This chapter describes:

- The requirements and procedures that the Seller must follow to originate a TAH Bond Credit Enhancement Mortgage
- The characteristics that the bond structure must have in order for Freddie Mac to provide a bond credit enhancement

Because Freddie Mac will provide bond credit enhancements only on a negotiated basis, the underwriting and bond structure requirements may vary from one transaction to another. Freddie Mac, in its sole discretion, sets credit parameters for any transaction based on its underwriting criteria at the time of such request.

### a. Origination requirements and the Minimum Origination Fee (04/15/21)

Under the TAH Bond Credit Enhancement Program, the Mortgage must be originated using funds from bond proceeds that are used in the financing of targeted affordable housing. Pursuant to this chapter and the Commitment, Freddie Mac will be obligated to pay directly to the bond trustee all principal and interest payments due on the bonds. From payments made by the Borrower, the Seller will be obligated to reimburse Freddie Mac for such payments, together with Freddie Mac's credit facility fee, liquidity fee and any swap credit enhancement fee and to retain or disburse, as appropriate, the Servicing Spread and any recurring fees of other parties to the transaction that are payable from monthly collections under the reimbursement and security agreement.

### b. Eligible Mortgages (03/31/11)

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
- Substitution of an existing credit facility for existing bonds

### c. Fixed-rate Mortgages (03/31/11)

Freddie Mac's bond credit enhancement of a fixed-rate Mortgage will be in the form of a bond credit enhancement agreement entered into by Freddie Mac and the bond trustee. In the bond



credit enhancement agreement, Freddie Mac will agree to pay to the bond trustee the amount of any required principal or interest payment when due.

**d. Variable-rate Mortgages (03/03/14)**

The bond credit enhancement agreement in connection with a variable-rate Mortgage must contain all of the provisions described in Section 28.1(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 28.12(k);
- The bond credit enhancement agreement for a variable-rate Mortgage will require Freddie Mac to pay to the bond trustee the funds necessary to enable tendered bonds that the remarketing agent is unable to remarket to be purchased on behalf of the Borrower; and
- Freddie Mac will not be obligated to pay any Mortgage interest that the Borrower fails to pay on the portion of the outstanding principal balance of the Mortgage that equals the principal amount of any bonds that have been purchased and are being held on behalf of the Borrower.

**e. Combination financing (12/16/15)**

Combination financing is the use, for one Property, of tax-exempt bonds and either a cash Mortgage or taxable bonds. It may be utilized for new bond allocations or for refundings or substitutions of bond credit enhancements. In a new bond transaction or a refunding, combination financing may allow placement of total debt that exceeds the available bond allocation. In a substitution transaction, combination financing allows Borrowers to re-leverage their Property by adding conventional debt to tax-exempt bond credit enhancement without incurring the expense or risk of re-issuing tax-exempt bonds.

The Seller must underwrite the tax-exempt bond credit enhancement and the cash Mortgage or taxable bond credit enhancement as a single financing, secured (in the case of taxable bonds) 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 bond credit enhancement 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 tax-exempt bond credit enhancement 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 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.

*Guide Bulletin Update 12/14/23 Chapter 28 – Page 5*



**f. 501(c)(3) bonds (12/16/15)**

Freddie Mac will credit enhance tax-exempt bonds 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) bonds.

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 bond credit enhancement Mortgages (09/28/18)**

Bond credit enhancement Mortgages backing fixed- or variable-rate tax-exempt bonds with 4% LIHTC are 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 credit enhances bonds 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 bond credit enhancement Mortgage, all work must be completed and the Property must reach stabilization within 24 months of the Origination Date, or if earlier, the term of the Mortgage.

The requirements outlined in Section 19.2(e) also apply to Preservation Rehabilitation for bond credit enhancement Mortgages.

**h. LIHTC support for mixed-income Properties (06/15/23)**

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.

See Section 25.1(h) for additional requirements for LIHTC foreclosure support for mixed-income Properties.

**28.2 Additional underwriting requirements (10/21/21)**

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

The calculation of the underwritten interest rate is outlined below:

| Characteristics                         | Underwritten Interest Rate   |
|---|--|
| Fixed-rate tax-exempt bond financing    | Fixed rate necessary to repay bond + fee stack                                 |
| Variable-rate tax-exempt bonds 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 (05/05/17)**

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

**c. Maximum term and amortization period (12/16/15)**

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 tax-exempt bond financing (12/16/15)**

For a Property with tax-exempt bond 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 (10/21/21)**

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. If the interest compounds, it must compound at a rate equal to or less than the current [Applicable Federal Rate](#).

### 28.3 General prescreen package requirements (02/28/13)

See Section 28.4 for information regarding the prescreen package, and Section 28.6 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.

### 28.4 Initiating a transaction with Freddie Mac (07/01/14)

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.

## 28.5 Quote (05/31/11)

### a. Issuance of the quote (05/31/11)

If the Mortgage presented in accordance with Section 28.4 appears to meet the requirements of a TAH Bond Credit Enhancement Mortgage, 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, indication credit facility fee, indication liquidity facility fee (if applicable), Servicing Spread, Mortgage term, amortization period (if applicable), prepayment terms and indication of the fees and expenses of Freddie Mac's outside legal 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 (03/31/11)

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 substitution or refunding 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 28.8(d).

### c. Obligations of the parties (03/31/11)

Issuance of a Quote will not obligate the Seller to submit a full underwriting package or obligate Freddie Mac to provide a bond credit enhancement for the proposed Mortgage.

## 28.6 Full underwriting package (04/30/19)

After Freddie Mac issues a Quote, the Targeted Affordable Housing Seller/Service 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 credit enhanced under the TAH Bond Credit Enhancement 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.



## 28.7 Commitment (05/31/11)

The Commitment represents Freddie Mac's offer to provide a bond credit enhancement with respect to the proposed Mortgage.

### a. Issuance of the Commitment (05/31/11)

After the Seller submits a full underwriting package meeting the requirements of Section 28.6, 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 sum of the Freddie Mac credit facility fee, the Servicing Spread and the other bond-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 Freddie Mac credit facility fee
6. The Freddie Mac liquidity facility fee, in the case of a variable-rate transaction
7. The Servicing Spread
8. The maximum Mortgage interest rate
9. All additional conditions that must be satisfied before Freddie Mac will be obligated to execute the bond credit enhancement agreement

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 provide a bond credit enhancement with respect to the Mortgage under any conditions.

### b. Seller acceptance (05/31/11)

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.

## 28.8 Freddie Mac's fees (03/03/14)

### a. Credit facility fee (03/31/11)

Freddie Mac will receive a credit facility fee, which will be expressed as a percentage of the excess of the UPB of the Mortgage over the balance in any principal reserve fund (disregarding any investment earnings accumulated in the principal reserve fund). The Servicer must remit the credit facility fee to Freddie Mac each month from payments collected under the reimbursement and security agreement.

### b. Liquidity facility fee (03/31/11)

In the case of a variable-rate Mortgage, Freddie Mac will receive a liquidity facility fee, which will be expressed as a percentage of the UPB of the Mortgage (without reduction of the UPB by amounts on deposit in any principal reserve fund). The Servicer will remit the liquidity facility fee to Freddie Mac each month from payments collected under the reimbursement and security agreement.

### c. Reserved (03/03/14)

### d. Fees and certification regarding payment of fees and expenses for Freddie Mac's outside counsel (02/29/12)

The Seller must pay, or must require the Borrower to pay, the fees of Freddie Mac's outside counsel, as described below, at or before the bond closing.

1. Freddie Mac engages outside legal counsel to represent Freddie Mac in connection with the bond and Mortgage transactions. Such representation may include the following services:
  - a. Review of and advice regarding any existing 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
  - g. Attendance at the closing of the proposed transaction as Freddie Mac's representative
2. The fee of outside counsel is a negotiated fee determined by Freddie Mac. The fee includes all reasonable out-of-pocket expenses (including photocopying, long-distance telephone, facsimile, messenger and overnight deliveries) incurred by Freddie Mac's outside legal



counsel in connection with such representation. The fee does not include any travel expenses incurred by Freddie Mac's outside legal counsel in connection with its participation in the proposed transaction. In the event the proposed transaction does not close, the fixed fee will be reduced to the actual time value of Freddie Mac's outside legal counsel, if such time value is less than the fixed fee. If significant unanticipated complications occur in the proposed transaction, Freddie Mac may adjust the fee upward to reflect the additional services required. Such additional complications include

- a. More than limited negotiation of bond or mortgage documentation
  - b. More than limited negotiation with the bond issuer regarding regulatory requirements or intercreditor arrangements
  - c. Unexpected or unforeseen changes in facts or structure that materially increase the legal work required
  - d. Existence of a ground lease or subordinate debt
  - e. Involvement of parties inexperienced in bond transactions
  - f. Failure of the Seller and the Seller's counsel to perform their respective functions in a timely manner
  - g. More than one property
  - h. More than six months' elapse from the date of the Seller's Mortgage application with the Borrower
3. The fees and expenses of Freddie Mac's outside legal counsel are payable by the Seller without regard to either the final structure of or consummation of the proposed transaction. The fees and expenses of Freddie Mac's outside legal counsel are payable, in full, upon the earlier of:
- a. The closing of the proposed transaction, or
  - b. Any decision by the Seller or by Freddie Mac, in its sole discretion, not to proceed further with the proposed transaction, or
  - c. The Seller's determination, made at the Seller's sole discretion, that the proposed transaction has been abandoned or that the completion of the proposed transaction is not feasible

Any transaction that does not close within nine months from the date of the Seller's Mortgage application with the Borrower will be deemed abandoned, and the fees and expenses of Freddie Mac's outside counsel will be payable in full.

4. Within five days of receiving the signed application from the Borrower and the certification regarding payment of fees and expenses of Freddie Mac's outside counsel, the Seller must receive a deposit from the Borrower against the fees and expenses of Freddie Mac's outside legal counsel, and must send that deposit and the certification to Freddie Mac. The



[Certification Regarding Payment of Fees and Expenses of Freddie Mac's Outside Legal Counsel](https://mf.freddiemac.com/lenders/legal) form is available at [mf.freddiemac.com/lenders/legal](https://mf.freddiemac.com/lenders/legal).

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 Freddie Mac's outside legal counsel. The Seller is obligated to pay the fees and expenses of Freddie Mac's outside legal 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 Freddie Mac's Outside Legal Counsel to Freddie Mac, the Seller must obtain from Freddie Mac the loan number, the fee of Freddie Mac's outside legal counsel and the amount of the deposit. Freddie Mac will determine the fee for Freddie Mac's outside legal counsel and the size of the deposit.

## 28.9 Final delivery (03/31/11)

See Chapter 32.

## 28.10 Bond documents (05/01/14)

The bond documents must contain the following provisions, which must remain in effect as long as the bond credit enhancement agreement is in effect and Freddie Mac is not in default under that agreement:

### a. Third party fees and costs (02/29/12)

Freddie Mac must have no liability for

1. Issuance costs relating to the bonds, except for Freddie Mac's obligations under the bond credit enhancement agreement with respect to any portion of the bonds, the proceeds of which were used to pay costs of issuance
2. Negative arbitrage or investment losses with respect to amounts on deposit in funds or accounts held under the indenture
3. Redemption premiums payable to bondholders, 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 (03/31/11)

The indenture and financing agreement must acknowledge that, notwithstanding the bond trustee's beneficial ownership of the Mortgage, the bond trustee 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 (03/31/11)**

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

Where the Mortgage provides 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 bond transaction
2. Waive any of Freddie Mac's rights under any Mortgage Document or any document associated with the bond transaction
3. Consent to any action under any Mortgage Document or any document associated with the bond transaction
4. Modify or amend any Mortgage Document or any document associated with the bond transaction

**d. Event of taxability (03/31/11)**

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

1. Constitute a default under the bonds
2. Permit or require a mandatory redemption of the bonds, except if the bonds are fixed-rate
3. Give rise to the payment to the bondholders of any supplemental interest, liquidated damages, or other amount, or
4. Give rise to any right on the part of the bond issuer or the bond trustee to exercise or direct the exercise of any remedies under any Mortgage Document

**e. Information and notices from bond trustee (03/31/11)**

The bond trustee must provide the following information:

- To the Seller, the information necessary to calculate the credit facility fee



- To Freddie Mac and the Seller, prompt notice of all defaults and events of default that occur under the indenture or the financing agreement
- To Freddie Mac, within five Business Days after Freddie Mac's request, any information received by the bond trustee under the indenture or the financing agreement

**f. Other provisions (03/31/11)**

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

**g. Bond-related default provisions (05/01/14)**

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 financing agreement or any of the other bond documents, the reimbursement and security agreement, the interest rate cap agreement or the swap agreement
- Any default under the bonds

**h. Payments of principal and interest under the Note (03/31/11)**

The Note and reimbursement and security agreement must provide that payments by the Borrower of principal of and interest on the Mortgage will not be credited against the principal or interest due under the Note until such amounts are used to reimburse Freddie Mac for amounts paid under the bond credit enhancement agreement to pay principal of or interest on the bonds.

**28.11 Additional bond document requirements for fixed-rate bonds (05/31/11)**

Freddie Mac will approve the bond documents for fixed-rate bonds only if the bond documents satisfy the following requirements, in addition to those in Section 28.10:

**a. Mandatory redemption (03/31/11)**

Mandatory redemption of bonds must be required under the following circumstances:

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

The bond documents may not obligate Freddie Mac to make any payments with respect to redemption premiums on the bonds

**b. Terms of the bond credit enhancement agreement (05/31/11)**

The bond credit enhancement agreement will terminate on the earliest to occur of





1. The stated termination date for the bond credit enhancement agreement set forth in the Commitment
2. The date on which the bonds have been paid in full
3. The date on which all of the bonds shall have been purchased by Freddie Mac, in accordance with the bond credit enhancement agreement
4. The date on which the bond trustee, after having received sufficient funds to redeem all of the outstanding bonds in accordance with the bond indenture, releases Freddie Mac from all obligations and liability under the bond credit enhancement agreement
5. The date immediately following the effective date another credit facility is delivered to and accepted by the bond trustee in lieu of the bond credit enhancement agreement and the bond trustee releases Freddie Mac from all obligations and liabilities under the bond credit enhancement agreement

## 28.12 Additional bond document requirements for variable-rate bonds (04/13/23)

Freddie Mac will approve the bond documents for variable-rate bonds only if the bond documents and all parties to the bond documents satisfy the following requirements in addition to those in Section 28.10:

### a. Bond interest rate (03/31/11)

The bonds must initially bear interest at a variable rate of interest determined periodically, but at intervals of no less than one week, by a remarketing agent. Bondholders may have an optional right to tender their bonds for purchase at par. The Borrower may have the right to change the rate-setting mechanics, with Freddie Mac's prior written consent, to a fixed rate to maturity or a reset rate with interest determined on the basis of a reset period approved by Freddie Mac. Generally, Freddie Mac will require a reset period of not less than five years.

### b. Remarketing (03/31/11)

Freddie Mac must approve the remarketing agreement (under which the interest rate on the bonds will be periodically set and bonds tendered by bondholders will be remarketed) and the designated remarketing agent. Freddie Mac reserves the right to replace the remarketing agent.

### c. Principal reserve fund (04/13/23)

In lieu of requiring monthly payments of principal, the bond documents may provide for a principal reserve fund, into which a specified amount is deposited each month in lieu of payments of Mortgage principal.

The Borrower/Key Borrower Principal must fund the principal reserve fund based on the lesser of the bond amortization schedule or a 35-year amortization schedule at the bond rate, or, for variable-rate bonds, at the underwriting rate.



**d. Information from bond trustee (03/31/11)**

The bond trustee must provide the Seller with the information necessary to calculate the liquidity facility fee.

**e. Terms of the bond credit enhancement agreement (05/31/11)**

The bond credit enhancement agreement will terminate on the earliest to occur of

1. The stated termination date for the bond credit enhancement agreement set forth in the Commitment
2. The date on which the bonds have been paid in full
3. The date on which all of the bonds shall have been purchased by Freddie Mac, in accordance with the bond credit enhancement agreement
4. The date on which the bond trustee, after having received sufficient funds to redeem all of the outstanding bonds in accordance with the bond indenture, releases Freddie Mac from all obligations and liability under the bond credit enhancement agreement
5. The date immediately following the effective date another credit facility is delivered to and accepted by the bond trustee in lieu of the bond credit enhancement agreement and the bond trustee releases Freddie Mac from all obligations and liabilities under the bond credit enhancement agreement

**f. Reimbursement and security agreement (03/31/11)**

Contemporaneously with the issuance of the variable-rate bonds, the Borrower must enter into a reimbursement and security agreement with Freddie Mac, which must provide for

1. Reimbursement of amounts paid by Freddie Mac under the bond credit enhancement agreement to enable tendered bonds to be purchased on behalf of the Borrower
2. Replenishment of amounts withdrawn from the principal reserve fund at Freddie Mac's direction to enable tendered bonds to be purchased on behalf of the Borrower, and
3. Payment of liquidity use fees to Freddie Mac

All of these payments must be due by the earliest of

1. Ninety days after the related payment or withdrawal was made
2. The completion of remarketing or the redemption or cancellation of the purchased bonds
3. The expiration of the bond credit enhancement agreement
4. The replacement of the bond credit enhancement agreement with a substitute credit facility in accordance with the bond documents



5. The maturity date of the Mortgage

6. Acceleration of the Mortgage

**g. Pledge agreement (03/31/11)**

The Borrower must grant Freddie Mac a security interest in bonds purchased in whole or in part with amounts paid by Freddie Mac under the bond credit enhancement agreement or with withdrawals that Freddie Mac permits to be made from the principal reserve fund to secure the Borrower's payment of the reimbursements, replenishments and liquidity use fees payable under the reimbursement and security agreement.

**h. Mandatory redemption provisions (05/31/11)**

The bond documents for variable-rate bonds must require mandatory redemption or purchase in lieu of redemption of bonds under the following circumstances:

1. In whole or in part, upon any prepayment of the Mortgage
2. In whole, upon the expiration of the bond credit enhancement agreement unless the Borrower provides a substitute credit facility in accordance with the bond documents
3. In whole or in part, at the direction of Freddie Mac, upon the occurrence of an event of default under the reimbursement and security agreement
4. In part, based upon a sinking fund redemption schedule approved by Freddie Mac, except during any period when the bonds bear interest at a variable rate

**i. Substitute credit facility (03/31/11)**

The Borrower may be permitted to substitute another credit facility for Freddie Mac's bond credit enhancement agreement, if the bond documents permit a substitution and Freddie Mac consents. If the Borrower makes such a substitution during the fee maintenance period required by the Commitment, the Borrower must pay Freddie Mac a fee equal to the present value of the monthly payments of the following that would have been made during the remainder of the fee maintenance period set forth in the Commitment had the substitution not taken place:

1. Freddie Mac's credit facility fee
2. Freddie Mac's liquidity facility fee
3. Freddie Mac's swap credit enhancement fee, if any
4. The Servicing Spread

**j. Other provisions (03/31/11)**

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



**k. Interest rate hedge agreement (09/30/20)**

Contemporaneously with the issuance of variable-rate bonds, the Borrower must enter into an interest rate hedge agreement with a provider that is on Freddie Mac's approved list (see the [Multifamily Approved Counterparty List](#)) and that agrees to execute Freddie Mac's approved documentation:

1. The interest rate hedge agreement must obligate the hedge provider to make monthly payments in an amount
  - a. For a swap, equal to the difference, if any, by which interest at the variable interest rate on the notional principal amount exceeds interest at the fixed interest rate on the notional principal amount under the swap
  - b. For a cap, equal to the excess, if any, of interest at the variable interest rate on the notional principal amount over interest on the notional principal amount at the specified fixed interest cap rate (the "strike rate")
2. The initial notional principal amount under the interest rate cap or swap agreement must be no less than the unpaid principal balance (UPB) of the Mortgage on the date the bonds are issued. At the beginning of a subsequent interest rate cap or swap, the notional principal amount may be reduced by the amount of any reductions in the UPB of the Mortgage or amounts deposited in the principal reserve fund, as applicable.
3. The variable interest rate for a swap or 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 hedge agreement must obligate the hedge provider to post collateral as security for its obligations if its credit rating drops below a level specified in the interest rate hedge agreement.
5. Expiration of the interest rate hedge agreement
  - a. Reserved
  - b. For a cap, the expiration date of the agreement must be no earlier than five years after bond issuance. 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 reimbursement and security agreement.
6. If the interest rate hedge agreement expires and the Borrower does not provide an acceptable new interest rate hedge agreement, then Freddie Mac may require conversion of the interest rate-setting mechanism on the bonds.
7. For a cap, any fee payable to the hedge provider must be paid in full upon execution of the interest rate hedge agreement.



8. For those transactions where interest rate protection is provided in the form of an interest rate swap agreement, the Loan Documents will specify that a cap fee Reserve must be established at a particular point (for example, five years) prior to the expiration of the interest rate swap agreement. The Loan Documents will specify the date on which the Borrower must begin making deposits to the cap fee Reserve. The Servicer must establish, maintain and adjust the cap fee Reserve as provided in this section and in the reimbursement and security agreement.

**l. Assignment of interest rate hedge agreement (03/31/11)**

The Borrower must grant Freddie Mac a security interest in its rights under the interest rate hedge agreement, by means of a security agreement acceptable to Freddie Mac. The security agreement must permit Freddie Mac, at any time, to demand that the hedge provider make payments under the interest rate hedge agreement to the Seller or to Freddie Mac instead of the Borrower.

**m. Interest rate computation (03/31/11)**

So long as the bonds bear 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 and must be adjusted whenever the bond interest rate is adjusted. During any period when the bonds bear a fixed rate of interest through the expiration of a reset period or to their maturity, interest must be computed on the basis of 360-day year consisting of twelve 30-day months.

**n. Liquidity use fee (03/31/11)**

In the case of a variable-rate Mortgage, a liquidity use fee will be payable to Freddie Mac with respect to any funds provided by Freddie Mac to enable tendered bonds to be purchased on behalf of the Borrower or any withdrawal from the principal reserve fund for that purpose.

**o. Monthly payment billing (03/31/11)**

The reimbursement and security agreement 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 and the reimbursement and security agreement.

**p. Relationship of Mortgage payment and cap payments (05/01/14)**

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.

**q. Cap provider (12/12/14)**

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](#). If the cap provider is not currently approved, the Seller must provide Freddie Mac with a completed Counterparty Approval Request, available on [FreddieMac.com](http://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/Servicer 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.

### **28.13 Disclosure (03/31/11)**

#### **a. Official statement (03/31/11)**

The cover of any preliminary or final official statement or other offering materials prepared by the bond issuer with respect to the bonds, and any portions of such materials relating to the security for the bonds, must include a bold caption. Freddie Mac will provide language for the caption. The caption will state that the obligations of Freddie Mac under the bond credit enhancement agreement are obligations solely of Freddie Mac, and neither those obligations nor the bonds are debts of or guaranteed by the United States or any agency or instrumentality of the United States.

Any other disclosure regarding Freddie Mac that the bond issuer chooses to include in such materials must consist solely of information provided by Freddie Mac.

#### **b. Securities and Exchange Commission Rule 15c2-12 (03/31/11)**

Freddie Mac will have no obligation to execute the bond credit enhancement agreement if, in Freddie Mac's discretion, Freddie Mac believes there exists a substantial risk that Freddie Mac is or will be deemed to be an "issuer" or an "obligated person" within the meaning of Securities and Exchange Commission Rule 15c2-12.

### **28.14 Freddie Mac's review and approval (02/29/12)**

#### **a. Prior review of bond documents and structure (02/29/12)**

1. Freddie Mac and Freddie Mac's counsel must approve the structure and documentation for the bonds before the bonds are issued or 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 Note and the bond transaction. Freddie Mac's counsel will provide suggested forms for
  - A financing agreement among the bond issuer, the bond trustee and the Borrower,



- An indenture securing the bonds, and
- The Note.

The parties are not required to use Freddie Mac's suggested forms for these documents, so long as Freddie Mac and Freddie Mac's counsel approve the documents the parties do use prior to issuance of the bonds.

**b. Bond rating and bond opinion (02/29/12)**

Prior to executing the bond credit enhancement agreement, Freddie Mac must receive

1. A rating letter or other evidence satisfactory to Freddie Mac indicating that the bonds, when issued, will bear a rating by Standard & Poor's Ratings Services or Moody's Investors Service that is acceptable to Freddie Mac.
2. An unqualified opinion, satisfactory to Freddie Mac, from a nationally recognized bond counsel as to
  - The authorization and valid issuance of the bonds
  - The validity of the lien of the indenture
  - The excludability from gross income, for federal income tax purposes, of the interest payable on the bonds
  - 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

**28.15 UCC continuation and termination statements (05/01/14)**

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 bond issuer or the bond trustee 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 bond credit enhancement agreement has terminated and all obligations of the Borrower under the reimbursement and security agreement have been satisfied. See Section 29.4 and the Final Delivery Instructions found at [mf.freddiemac.com/lenders/purchase](http://mf.freddiemac.com/lenders/purchase) for further information about UCC financing statements.

**28.16 General Servicing policy for bond credit enhancements (04/30/19)**

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

**a. Servicing Spread (03/31/11)**

The monthly Servicing Spread will be the servicing fee stated in the Commitment. The servicing fee is not included in interest payable under the reimbursement and security agreement. The Servicer will earn the servicing fee when it collects the separate payments of that fee that are payable under the reimbursement and security agreement.





**b. Late fees (03/31/11)**

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

**c. Subordinate financing, partial release, condemnation or easement (03/31/11)**

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 bond transaction.

**d. Advance notice of prepayment (03/31/11)**

The Servicer must forward a copy of any advance notice of prepayment to the bond trustee at the same time as the Seller forwards that notice to *Multifamily Loan Accounting*.

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

The Servicer must notify the bond trustee and *Multifamily Loan Accounting* of any attempt by the Borrower to avoid the prepayment restrictions

**f. Notice of principal reductions (03/31/11)**

Any redemption of bonds using funds withdrawn at Freddie Mac's direction or with Freddie Mac's consent from the principal reserve fund will effect a reduction of the UPB of the Mortgage equal to the principal amount of bonds redeemed. If the Servicer receives notice from the bond trustee that a redemption has taken place, the Servicer must notify the Borrower of the resulting change in the UPB of the Mortgage.

**28.17 Billing and collections (07/01/14)**

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, the reimbursement and security agreement and the interest rate cap agreement.

**a. Reimbursements (07/31/12)**

The Servicer must collect reimbursements according to these procedures:

1. Three Business Days before the last 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 last Business Day of the month to reimburse Freddie Mac for (i) any of its outstanding credit advances or liquidity advances and (ii) the credit advance to be made by Freddie Mac 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 reimbursement and security 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 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 paid 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 and in the reimbursement and security agreement, 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 are received by Freddie Mac on or before the date on which the bond trustee is scheduled to draft from Freddie Mac under the credit enhancement agreement the bond Mortgage funds 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 (03/31/11)**

The Servicer must collect reimbursements according to these procedures:

1. Three Business Days before the last Business Day of the month, the Servicer must compute the amount of the payment 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 that will be due to the Servicer two Business Days before the last Business Day of the month and (ii) the portion of that payment 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 reimbursement due to Freddie Mac under the reimbursement and security agreement.
4. If the Borrower agrees, the Servicer may collect the full reimbursement amount from the Borrower and remit to the Borrower any corresponding amount the Servicer receives from the cap provider.

**c. Liquidity reimbursements (03/31/11)**

If Freddie Mac has notified the Servicer that Freddie Mac has made a liquidity advance or if there has been a liquidity or nonliquidity withdrawal, the Servicer must compute the following amounts payable by the Borrower to the Servicer under the reimbursement and security agreement and must notify the Borrower of the amount according to the following schedule:



1. For reimbursement of any of Freddie Mac's outstanding liquidity advances, in accordance with the reimbursement and security agreement
2. For replenishment of liquidity withdrawals and nonliquidity withdrawals, in accordance with the reimbursement and security agreement
3. For interest with respect to liquidity advances and nonliquidity withdrawals, three Business Days before the last Business Day of the month. The payment is due to the Servicer two Business Days before the last Business Day of the month
4. For liquidity use fees with respect to liquidity withdrawals, three Business Days before the last Business Day of the month. The payment is due to the Servicer two Business Days before the last Business Day of the month

**d. Prepayments (03/31/11)**

A voluntary prepayment of the bond mortgage by the Borrower will necessitate a credit advance by Freddie Mac in order to effect a redemption of bonds. If the Borrower or Freddie Mac informs the Servicer that the Borrower intends to make a voluntary prepayment, the Servicer must request instructions from *Multifamily Loan Accounting*. Unless otherwise instructed by Freddie Mac, the Servicer must request that the Borrower deposit the reimbursement of any anticipated credit advance on or before the date on which that credit advance is to be made. The Servicer must notify *Multifamily Loan Accounting* when it receives the Borrower's reimbursement.

**e. Other amounts (07/01/14)**

The Servicer must diligently attempt to collect all of the following, at the times they are due and payable under the Loan Documents and the reimbursement and security agreement:

1. Any monthly deposit to the principal reserve fund
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
5. Any swap payments owed by the Borrower to the swap provider under the swap agreement

**28.18 Cap fee Reserves (02/28/18)**

Unless otherwise stated, the Reserves for each bond credit enhancement must meet the requirements of Chapter 52.

**a. Deposits to cap fee Reserves (02/28/18)**

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 reimbursement and security agreement
2. The monthly deposit that the Borrower is required to make under the reimbursement and security 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 bond closing, if the interest rate hedge agreement is a cap, 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. If the interest rate hedge agreement is a swap, the Servicer will perform the escrow analysis at the time provided for in the reimbursement and security agreement.
  - b. Within 10 days of bond 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](mailto:capinfo@kensington-advisors.com), together with the pertinent pages governing the cap fee Reserve from the reimbursement and security agreement. The [Kensington Cap Escrow Adjustment Form](https://mf.freddie.mac.com/lenders/asset) is available at [mf.freddie.mac.com/lenders/asset](https://mf.freddie.mac.com/lenders/asset).
  - c. Thirty days prior to the due date of each cap fee Reserve adjustment, Kensington will provide each Servicer with a list of bond credit enhancements requiring review of the cap fee Reserve deposits. Upon receipt of the list of credit enhanced bonds, the Servicer must provide Kensington with the outstanding notional balance of the existing hedge and the cap fee Reserve balance for each of the bonds 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 hedge 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 reimbursement and security agreement in the manner set forth in this section and in accordance with the terms of the reimbursement and security 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 bond credit enhancement without written authorization from Freddie Mac.



**b. Investment of cap fee Reserve (10/31/12)**

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 (10/31/12)**

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 (07/01/14)**

If the Borrower is not in default under any document associated with the bond 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 reimbursement and security agreement.

**e. Investment losses (05/01/14)**

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, the bond documents and the bond credit enhancement 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.



## 28.19 Application of payments (10/31/12)

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

### a. Application of payments under reimbursement and security agreement (10/31/12)

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

1. To Freddie Mac's credit facility fee
2. To Freddie Mac's liquidity facility fee
3. To the Servicing fee
4. To prepayment/substitution premiums
5. To required deposits to the cap fee Reserve
6. To required deposits to the Replacement Reserve
7. To required Reserve deposits
8. To interest due on credit advances and nonliquidity withdrawals
9. To interest due on liquidity advances
10. To liquidity use fees
11. To reimbursement of credit advances, in the order in which made
12. To reimbursement of liquidity advances and replenishment of liquidity withdrawals and nonliquidity withdrawals, in the order in which such reimbursements and replenishments became due
13. To the scheduled monthly deposit to the principal reserve fund (or, in the event the bonds are amortizing, to principal due)
14. To default interest
15. To other amounts due under the reimbursement and security agreement

### b. Application of payments under reimbursement and security agreement (03/31/11)

Payments from or on behalf of the Borrower may include payments of principal or interest on purchased bonds pledged to Freddie Mac.





## 28.20 Remittances (06/12/23)

Unless otherwise stated, remittances for each bond credit enhancement must meet the requirements of Chapter 53.

So long as the bond credit enhancement agreement is in effect and all of the bonds have not been redeemed or canceled, the Servicer must remit, deposit or retain the funds collected under the Loan Documents, the reimbursement and security agreement and the interest rate cap or swap agreement in accordance with this section.

On the second Business Day after the Servicer receives any payments due to Freddie Mac under the reimbursement and security agreement and the interest rate cap or swap agreement, the Servicer must remit such payments to Freddie Mac via the myOptigo® Servicer Remittance system, as described in Section 53.7.

Not later than two Business Days following receipt by the Servicer from the Borrower of any swap payment owed to the swap provider under the swap agreement, the Servicer must remit such swap payment to the swap provider.

The Servicer must remit to the bond trustee for deposit in the principal reserve fund any funds applicable to such fund, as provided in the Loan Documents. The Servicer must make any remittance to the bond trustee by wire transfer in accordance with the bond credit enhancement agreement.

The Servicer must remit any bond fee component payable as provided in the financing 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 and a portion of any prepayment/substitution premium. The Servicer's portion of the prepayment/substitution premium is determined by the following formula:

- The dollar amount of the substitution/prepayment premium multiplied by a fraction, the numerator of which is the annual servicing fee (expressed as a percentage) and the denominator of which is the sum of Freddie Mac's annual credit enhancement fee and the annual servicing fee (also expressed as percentages).

## 28.21 Accounting (10/31/12)

Unless otherwise stated, accounting for each bond credit enhancement must meet the requirements of Chapter 54.

### a. Partial payments (10/31/12)

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 (03/31/11)**

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

- Refer to the bond trustee 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 bond trustee
- 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. Reimbursement and security agreement payoff quotes (03/31/11)**

The Servicer must respond to any Borrower request for a quote of amounts due under the reimbursement and security agreement 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 (03/31/11)**

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

**e. Variable-rate interest calculations (03/31/11)**

During any period when interest on the bonds, and therefore interest on the bond 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 indenture.

**28.22 Reporting (03/31/11)**

Unless otherwise stated, reporting for each bond credit enhancement must meet the requirements of Chapter 54.

**a. Loan-level transactions (03/31/11)**

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 payment was received by or on behalf of the Borrower under the reimbursement and security agreement or the interest rate cap or swap 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



- Bond interest paid 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 bond trustee.

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 reimbursement and security agreement or the interest rate cap or swap 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
- Bond interest paid 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 bond trustee.

**b. Other amounts (03/31/11)**

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 (03/31/11)**

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

**28.23 Mortgage interest rate (03/03/14)**

Freddie Mac will be obligated to execute and deliver the bond credit enhancement agreement only if both of the following conditions are satisfied:

- The reimbursement and security agreement requires the Borrower to pay:
  - All principal and interest payments made by Freddie Mac under the bond credit enhancement agreement
  - The bond interest rate, as later determined at the time of bond pricing (see below)
  - Freddie Mac's credit facility fee
  - Freddie Mac's liquidity facility fee, if any
  - The Servicing Spread



- Deposits to the cap fee Reserve, if applicable
- Any recurring fees of other parties to the transaction (such as the bond trustee, bond issuer and remarketing agent) that will be payable from interest paid on the Mortgage
- The Mortgage interest rate does not exceed the maximum Mortgage interest rate specified in the Commitment

## 28.24 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 bond issuer or the bond issuer's 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 bond issuer or the bond issuer's designee or (ii) the date on which the Borrower actually submits the evidence to the bond issuer or the bond issuer's designee
4. Take any other steps that Freddie Mac directs to verify the Borrower's compliance with the regulatory agreement