

Response to SIFMA Inquiry regarding CRT REMIC proposal

Final of January 2, 2018

- Q1. While the documentation released on August 29 is helpful, it did not identify the entity the REMICs sit in (to satisfy technical tax requirements). If the entity will be some sort of trust structure, would be helpful to know how it will be documented for clarity and uniformity in understanding any effects on MBS.**

Joint Response: As indicated in the two memoranda that Fannie Mae released on August 29, the loan delivery and pooling processes will remain the same and the manner in which title to the mortgage loans in MBS/PC trusts is held will remain the same. Contemporaneous with the pooling process, beneficial interest in the mortgage cashflows of any MBS/PC trust created over a ten day period will be assigned to a trust created by each respective Enterprise (a "Ten Day Trust") and a REMIC election will be made with respect to the assets of that Ten Day Trust. In turn, "REMIC Mirror Interests" that comprise the same MBS / PC investor cashflows will be assigned from the Ten Day Trust back to the respective MBS / PC trusts. Next, at the end of each quarter, the mortgage assets of the Ten Day Trusts created during that quarter will be assigned to a trust created by the respective Enterprise (the "Quarterly Trust") and a REMIC election will be made with respect to the assets of that trust (the "Q-REMIC"). As before, Q-REMIC regular interests that comprise the same MBS / PC investor cashflows will be assigned back to the respective Ten Day Trusts. The Enterprises will establish a reserve fund in the Q-REMIC and the Q-REMIC will issue subordinate REMIC regular interests to Fannie Mae / Freddie Mac backed by (i) the reserve fund (including earnings thereon) and (ii) excess mortgage interest. These subordinate REMIC regular interests will be the mortgage collateral used to support the issuance of CAS / STACR REMIC securities. Each Enterprise will retain all of the REMIC residual interests created in both the Ten Day REMICs and the Q-REMICs for the life of the applicable REMIC. Tax counsel for each of the Enterprises has determined that this approach satisfies the technical tax requirements and does not require any ruling from the IRS. See also the response to Question 4 regarding ongoing discussions with the IRS.

Corporate counsel for Fannie Mae (Katten Muchin Rosenman LLP) believes that MBS issued pursuant to this proposed structure will qualify for treatment as "whole pool certificates" in accordance with applicable SEC No-Action Letters to the same extent as MBS issued prior to implementation of the proposed structure. Katten and Clifford Chance US LLP will update their legal memoranda (previously dated August 29, 2017) to reflect the proposed structure in its present form.

Corporate counsel for Freddie Mac also believes the PCs issued pursuant to the proposed structure will qualify for treatment as "whole pool certificates" in accordance with applicable SEC No-Action Letters to the same extent as PCs issued prior to implementation of the proposed structure.

- Q2. It is not clear in the documentation released thus far how the streamlined refi program will work with the MBS and CRT, given that there is apparently a desire that the mirror REMIC remain in the CRT while being removed from the MBS. REMIC requirements would appear to require that modifications to the loan need to be automatic as well as contemplated in the mortgage instrument; does this imply that changes will be made to mortgage loan terms? Would this create parity with the existing HARP/refi process, or create a situation where borrower incentives could change?**

Joint Response: A refinancing under the High LTV Streamlined Refinance program results in a new origination; lenders have the same discretion they always have on whether to originate a loan or not. When the High LTV Streamlined Refinance Program is implemented by each Enterprise, we anticipate

that the related documentation will make clear that, when an Enterprise acquires a mortgage loan, the Enterprise will not have the discretion to deny a borrower's right to the benefits of the High LTV Refinance Streamlined Program so long as the borrower's loan satisfies the applicable program requirements. Although the Enterprises will treat the loan as having been modified for federal income tax purposes, that transaction will be "automatic" for purposes of the applicable tax rules. In every case, however, the originator must first originate the loan and determine that the borrower has satisfied the program requirements.

From an MBS/PC investor perspective, the original loan that subsequently goes through the High LTV Streamlined Refinance Program will be removed from the MBS/PC resulting in a prepayment to the MBS/PC investor of the full outstanding principal balance of the subject loan, consistent with the process for the Home Affordable Refinance Program (HARP). Because the Enterprises will treat the loan as having been subject to an automatic modification for federal income tax purposes, the loan will remain in the CRT REMIC. To reflect this desired outcome, the REMIC Mirror Interest corresponding to the subject loan will be removed from the MBS/PC trust and the REMIC Mirror Interest (which will then be held by the Enterprise) will thereafter correspond to the modified mortgage loan.

Neither Enterprise anticipates that borrower incentives will change significantly upon the implementation of its High LTV Streamlined Refinance Program.

Q3. More detail is needed on default/buyout situations – it is clear that the mortgage would be removed from the MBS trust at 120 days consistent with current practice, but it is not clear what happens after that time.

Joint Response: As previously noted, no changes will be made to the MBS/PC, including our option to remove a loan from the MBS/PC when it becomes 120 days delinquent. In administering a REMIC, we may hold a delinquent or defaulted loan in a REMIC even if we have fully advanced amounts in respect of the loan to MBS/PC investors. If we choose to do so, we would do this subject to compliance with the applicable tax rules and in a manner that would not adversely affect any MBS/PC or CRT investor. In addition, compliance with the REMIC rules concerning REO should result in no change to our existing REO management practices.

Q4. What is the process by which the Enterprises are ensuring that the IRS is comfortable with the conclusions being drawn around this change? Will the IRS issue anything?

Joint Response: The Enterprises have provided and will continue to provide the IRS and Treasury with information regarding the CRT REMIC proposal. Tax counsel for each of the Enterprises has determined that the proposed structure satisfies the technical tax requirements and we do not anticipate asking for any IRS rulings; however, we may adjust our approach as we deem desirable and appropriate after consultation with the IRS and Treasury.

Q5. How will tax reporting work for mixed pools of the “old” and “new” MBS in Giants or Megas or otherwise?

Joint Response: As referenced in the Fannie Mae materials released on August 29, MBS with a REMIC election will be fungible with existing MBS. Freddie Mac has reached a similar conclusion regarding PCs. Tax reporting for Megas and Giants that include MBS/PCs with a REMIC election will be prepared on the accrual basis of accounting, including situations in which the underlying MBS/PCs are a mix of REMIC and non-REMIC pools.

Q6. What types of assets will the reserve funds hold? Will the assets of the reserve fund be disclosed and will the bond holders (MBS or CRT) have any rights in the reserve fund?

Joint Response: The proposed CRT REMIC structure on which both Enterprises are now aligned includes both a “Collateral Account” which will be included in the CAS/STACR trust and a “Reserve Fund” which will be included in each Q-REMIC structure created by each Enterprise. Please see the diagram on page 4 of the Updated Fact Sheet (Fannie Mae) and the diagram on page 7 of the Potential Enhancement to STACR Program presentation (Freddie Mac). Our response addresses both the Collateral Account and the Reserve Fund.

The Collateral Account, which will hold the proceeds from the issuance of the CRT securities, will be an asset of the CRT trust. CRT investors will have rights to the assets in this account, which will always be equal to the outstanding principal balance of the related CRT securities. The assets in the Collateral Account will be limited to “permitted investments,” which will be defined to be consistent with generally accepted investments and applicable law for such trust accounts. MBS/PC investors will have no rights to the assets in the Collateral Account.

In addition, the Q-REMICs created by each Enterprise will include a Reserve Fund. The Reserve Fund for each Enterprise will hold an unsecured corporate obligation of the respective Enterprise that bears an interest rate of LIBOR; the principal balance of the obligation will be equal at all times to the outstanding principal balance of the related CRT securities. The Reserve Fund will not provide MBS/PC investors any additional rights beyond those enjoyed by investors today, given that the MBS/PC guaranty will not change and such guaranty is itself an unsecured corporate obligation of the related Enterprise.

The sole asset in the REMIC Reserve Fund will be an unsecured corporate obligation of the related Enterprise. In addition, the Enterprises will use excess mortgage interest to pay interest on the CAS / STACR REMIC securities.

Q7. FAQ #26 discusses CRT TRACE reporting. Is there any update on this?

Joint Response: The proposed enhancement will not alter TRACE reporting for MBS/PC transactions. With regard to the reporting of CRT REMIC transactions on TRACE, secondary trading activity will continue to be reported on TRACE. We are currently working with FINRA in an effort to ensure that the TRACE reporting regime for CAS/STACR is not impacted as a result of implementing these proposals.