



# Freddie Mac Potential STACR Enhancement

## Proposed Changes to Single-Family Offering Circular

In potentially moving to a REMIC tax election for the majority of single-family loans it acquires, Freddie Mac would make changes to several sections of its Single-Family Offerings Circular as highlighted below.

### Under Types of Mortgages in the Summary:

The assets in each PC Pool include mortgages or participation interests in mortgages that we have acquired (“**Mortgages**”), all proceeds of those Mortgages, amounts on deposit in a custodial account of Mortgage collections from servicers of those Mortgages and the right to receive payments pursuant to our guarantee. The Mortgages are secured primarily by first liens on one- to four-family residential properties and may be either fixed-rate Mortgages or adjustable rate Mortgages (“**ARMs**”). Some fixed-rate Mortgages and ARMs are Initial Interest Mortgages. We describe the characteristics of different types of Mortgages in *Description of the Mortgages*. We make available on our internet website information regarding the Mortgages in each PC Pool on a loan-level basis and, in the related Pool Supplement, on a pool-level basis. **As described in *Certain Federal Income Tax Consequences* below, we will make elections to treat certain Mortgages in PCs as part of a “real estate mortgage investment conduit” (“REMIC”) for federal income tax purposes. Except where the context otherwise requires, the term “Mortgages” includes Mortgages for which we have made a REMIC election.**

### Under Tax Status in the Summary:

We will classify each PC Pool as a grantor trust. As an investor in PCs, you will be treated as the owner of a pro rata undivided interest in the ordinary income and the principal of the related grantor trust, and will be considered the owner of a pro rata undivided interest **in the underlying assets of the grantor trust.** You should be aware that special rules may apply with respect to PCs **backed by Mortgages that are part of a REMIC or are** High LTV Mortgages, as defined below. See *Certain Federal Income Tax Consequences — Tax Status*.

### Under Tax Status in Certain Federal Income Tax Consequences:

Each PC Pool will be classified as a grantor trust under subpart E, part I of subchapter J of the Code and not as an association taxable as a corporation. As an investor in a PC, you will be treated for federal income tax purposes as the owner of a pro rata undivided interest in the underlying Mortgages. **We will make elections to treat underlying Mortgages in PCs, except with respect to Mortgages backing PCs with the prefixes U7, U8 and U9, as part of a REMIC for federal income tax purposes, effective as of the effective date of the REMIC election. Such elections will not alter the treatment of the PC Pools as grantor trusts for federal income tax purposes.**

If you own PCs, you must report on your federal income tax return your pro rata share of the entire income from the Mortgages in the related PC Pool, in accordance with your method of accounting. Income will include gross interest income at the interest rates on the Mortgages and incidental fees, if

any. If we make a REMIC election with respect to Mortgages in your PCs, you will be required to account for such Mortgages under the accrual method of accounting.

You generally will be able to deduct, under Section 162 or 212 of the Code, your pro rata share of servicers' fees or any of our guarantee fees, including incidental fees paid by the borrowers and retained by the servicer or us and all administrative and other expenses of the PC Pool, in accordance with your method of accounting. The Code limits the deductions for these miscellaneous itemized deductions for some investors.

PCs generally will be considered to represent "real estate assets" within the meaning of Section 856(c)(5)(B) of the Code. Interest income from the PCs generally will be considered to represent "interest on obligations secured by mortgages on real property" within the meaning of Section 856(c)(3)(B) of the Code. In the event that any Mortgage has an LTV ratio in excess of 100% (that is, the principal balance of any Mortgage exceeds the fair market value of the real property securing it), the interest income on the excess portion of the Mortgage will not be "interest on obligations secured by mortgages on real property" within the meaning of Section 856(c)(3)(B) of the Code and such excess portion of the Mortgage will not be a "real estate asset" within the meaning of Section 856(c)(5)(B) of the Code. The excess portion will represent a "Government security" within the meaning of Section 856(c)(4)(A) of the Code. If a PC contains a Mortgage with an LTV ratio in excess of 100%, a Holder that is a real estate investment trust should consult its tax advisor concerning the appropriate tax treatment of such excess portion.

It is not certain whether or to what extent Mortgages with LTV ratios above 100% qualify as loans secured by an interest in real property for purposes of Section 7701(a)(19)(C)(v) of the Code. Even if the property securing the Mortgage does not meet this test, the PCs will be treated as "obligations of a corporation which is an instrumentality of the United States" within the meaning of Section 7701(a)(19)(C)(ii) of the Code. Thus, the PCs will be a qualifying asset for a domestic building and loan association.

Under Treasury regulations applicable to a REMIC, a mortgage will generally be treated as a "qualified mortgage" within the meaning of Section 860G(a)(3)(A) of the Code (and not other statutes) only if the mortgage has an LTV ratio of 125% or less at either (i) the time the obligation was originated (which includes the time of any "significant modification" of such obligation) or (ii) the time a sponsor contributes the obligation to a REMIC. Accordingly, a Mortgage with an LTV ratio in excess of 125% at origination (including at the time of any "significant modification" of such obligation) generally would not be considered a "qualified mortgage" for purposes of the REMIC rules unless the LTV ratio has decreased to 125% or below at the time such Mortgage is contributed by a sponsor to a REMIC. The REMIC regulations provide a special rule pursuant to which any modification that is occasioned by default or a reasonably foreseeable default is not treated as a "significant modification." Because a Modified Mortgage is a mortgage that has been modified as a result of default or a reasonably foreseeable default, a Modified Mortgage would constitute a "qualified mortgage" as long as it has an LTV ratio of 125% or less at either (i) the time such Modified Mortgage was originated (ignoring such modification) or (ii) the time a sponsor contributes the Modified Mortgage to a REMIC. You should consult your tax advisor concerning the tax consequences of transferring PCs to a REMIC.

## **Under Legal Investment Considerations:**

You should consult your own legal advisors to determine whether PCs are legal investments for you and whether you can use PCs as collateral for borrowings. In addition, financial institutions should consult their legal advisors or regulators to determine the appropriate treatment of PCs under any applicable risk-based capital and similar rules.

If you are subject to legal investment laws and regulations or to review by regulatory authorities, you may be subject to restrictions on investing in some types of PCs or in PCs generally. Institutions regulated by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, the Department of the Treasury or any other federal or state agency with similar authority should review applicable regulations, policy statements and guidelines before purchasing or pledging PCs.

Our counsel, Cadwalader, Wickersham & Taft LLP, has advised us on [ ], that, for purposes of determining whether the acquisition of 100% of any PC causes such PC to be a “qualifying interest” for purposes of Section 3(c)(5)(C) of the Investment Company Act of 1940, as amended, PCs representing beneficial ownership of Mortgages as to which REMIC elections have been or may be made should be treated no differently than are PCs representing beneficial ownership of Mortgages as to which no REMIC election has been made. Cadwalader has not undertaken to update that advice to reflect any new developments. Moreover, whether or not a REMIC election has been made with respect to the Mortgages owned by a PC Trust, an investor acquiring 100% of the applicable PCs should reach its own conclusion, in consultation with such advisors as it deems appropriate, as to whether “qualifying interest” characterization is appropriate.