

CHAPTER 31: PROJECT LOAN POOLS — SPECIAL REQUIREMENTS

31-1: OVERVIEW OF CHAPTER

This chapter describes special requirements that apply to a pool consisting of one or more multifamily project loans.

The requirements stated here modify those set forth in previous chapters for applying for and maintaining Issuer status, obtaining commitment authority and pool numbers, submitting pool issuance documents, delivering securities, and administering pools.

The pool suffix is “PL,” “PN,” “LM,” “LS,” or “RX” depending on the following specific pool requirements:

“PL” identifies a pool consisting of a single, level payment FHA-insured project loan that (A) has a first scheduled payment date no more than 24 months before the issue date of the securities and (B) has not been modified subsequent to FHA’s final endorsement. (See Section 31-6).

“PN” identifies a pool consisting of a single, non-level payment FHA-insured or Rural Development, RD-guaranteed project loan that (A) has a first scheduled payment date no more than 24 months before the issue date of the securities and (B) has not been modified subsequent to FHA’s final endorsement, and execution of RD Form RD 3565-4, Loan Note Guarantee. (See Section 31-7 for special PN pool requirements)

“LM” identifies a pool consisting of (A) a single project loan with a first scheduled payment date more than 24 months before the issue date of the securities or (B) a loan that has been modified subsequent to final endorsement (See Section 31-8 for special LM pool requirements).

“LS” identifies a pool consisting of one or more project loans, (A) each of which is secured by a lien on a small project as determined by FHA or an RD-Section 538 guaranteed loan that has been used for the revitalization of the Section 515 loan portfolio, (B) each of which has a first scheduled payment date no more than 24 months before the issue date of the securities and (C) none of which has been modified subsequent to final endorsement, or issuance of the RD permanent loan guarantee (See Section 31-9 for special LS pool requirements).

“RX” identifies a pool consisting of one or more project loans, (A) each of which is secured by a lien on a Mark-to-Market project as determined by FHA and the

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Office of Affordable Housing Preservation (OAHP) and (B) each of which has a first scheduled payment date no more than 24 months before the issue date of the securities (See Section 31-10 for special RX pool requirements).

Note: Project loan pools may only be formed under the Ginnie Mae I MBS Program.

31-2: ISSUER ELIGIBILITY

To be eligible to issue project loan securities, an applicant must satisfy the eligibility requirements set forth in Chapters 2 and 3 of this Guide, including the net worth requirements applicable to Issuers of project loan securities (See Sections 2-9 and 3-8).

31-3: SERVICING FEES AND GUARANTY FEES

The spread between the face interest rate on a pooled mortgage and the interest rate on the securities is retained by the Issuer as a servicing fee. The Issuer uses this fee to pay the costs of servicing the mortgage, other costs of performing its Issuer responsibilities, and the Ginnie Mae guaranty fee. No additional fee will be charged to the mortgagor for the servicing of the mortgage.

The Ginnie Mae guaranty fee is 13 basis points. The minimum servicing fee, exclusive of the guaranty fee, is 12 basis points. The minimum spread between the mortgage note and the security interest rate is, therefore, 25 basis points. The spread may not exceed 50 basis points without prior written approval by Ginnie Mae. Exceptions to this rule include LS or RX pools, or a pool backed by an RD loan.

31-4: COMMITMENT AUTHORITY TO GUARANTEE SECURITIES

To participate in the MBS program, Issuers must request commitment authority and pool numbers as described in Chapter 8. All multiline commitment authority will expire on the last day of the month that is 24 months from the date of approval of the commitment authority. Multiline commitment authority cannot be converted to single-line commitment authority.

(A) Application

The procedure for applying for multiline commitment authority or pool numbers is described in Chapter 8, Section 3, and the documents that must be submitted to the Office of Mortgage-Backed Securities (see Addresses) are described in Chapter 8, Section 4.

(B) Commitment Fee

The commitment fee is described in Section 6-2(B).

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31-5: MORTGAGE ELIGIBILITY AND POOL REQUIREMENTS

A project loan pool, other than an LS or RX pool, may consist of only one mortgage representing a single loan on a completed project. An LS, RX or Rural Development pool may consist of one or more mortgages, each of which represents a loan on a completed project. Each mortgage must satisfy the following requirements:

(A) FHA Insurance, RD Guarantee

The mortgage must be insured by FHA under the National Housing Act, or guaranteed by RD under Title V of the Housing Act of 1949. Mortgages coinsured under section 244 and insured under Title X of the National Housing Act are not eligible for pooling, except that a coinsured loan that has been modified and finally endorsed for full insurance with FHA approval is eligible for pooling.

(B) Minimum Amount

As of the issue date, the remaining principal balance of the mortgage must be at least \$250,000 for all pool types except the LS pool type. Minimum pool size for the LS pool type will be \$100,000.

(C) Finally Endorsed or Guaranteed

The mortgage note must have been finally endorsed by FHA, or the Form RD 3565-4 Loan Note Guarantee must have been executed by RD, prior to inclusion of the mortgage in the Ginnie Mae project loan pool.

(D) Mortgages Sold in Auctions

A mortgage sold in an auction approved by Ginnie Mae may be pooled, provided that it otherwise satisfied the requirements set forth in this Chapter.

(E) Modified Mortgages

A project mortgage that has been modified with FHA approval after final endorsement is eligible for pooling only in an LM pool in accordance with the requirements of Section 31-8.

(F) Current Mortgage

The mortgage must be current, as of the date of certification by the document custodian, with respect to payments of principal and interest and any necessary deposits. The Issuer must not have advanced funds, or induced or solicited any advance of funds, for the payment of any amount required by the note or mortgage within three months preceding the date of certification. Excepted from this prohibition are any advances for interest accruing from the date of the note or the date of disbursement of the loan proceeds, whichever is later, to a day one month before the due date of the first installment of principal and interest.

(G) Servicing

The mortgage and securities may be serviced by either the Issuer or by a subcontract servicer in accordance with the requirements of Sections 4-2 and 4-3.

(H) Mortgages with Non-Level Payments

Any mortgage, otherwise eligible, that is not a fixed rate, fully amortizing loan with substantially equal payments over the life of the loan may not be pooled as a PL pool. This includes

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any mortgage that by its terms is subject to a contingency that may, or to an amortization schedule that will, alter its level of scheduled payments. Such loans may be pooled as PN, LM, RX, or LS pools if the other requirements for such pools, set forth in Sections 31-7, 31-8, 31-9, and 31-10 respectively, are satisfied.

(I) Commencement of Amortization

It is not necessary, in the case of a PL, PN, RX, or LS loan, that the project loan note provide for the commencement of amortization by the issue date. A Project Pool Report, form HUD 1710-C (Appendix VI-13) must be prepared and maintained by the Issuer until amortization begins.

(J) Section 221(g)(4) Assignment Option

Project loans insured pursuant to section 221 of the National Housing Act and securitized through Ginnie Mae pools are not eligible, without Ginnie Mae's written permission, to be assigned to HUD pursuant to section 221(g)(4) after the twentieth anniversary of final endorsement of the mortgage.

Section 306(g) of the National Housing Act empowers Ginnie Mae to contract with Issuers and provides that, pursuant to the terms of such contracts, which take the form of Guaranty Agreements, the mortgages become the absolute property of Ginnie Mae, subject only to the unsatisfied rights of holders of the securities. Accordingly, Ginnie Mae reserves the exclusive right to exercise the option under section 221(g)(4) of the National Housing Act to assign, transfer, and deliver the original credit instrument and mortgage to the Secretary (including sale through Secretary- approved auctions) after 20 years in exchange for debentures. If an Issuer wants Ginnie Mae to approve the exercise of the option, it must present its request in writing to the Office of Mortgage-Backed Securities (see Addresses) and receive written approval. In addition, the Issuer must comply with all other requirements for pool termination (see Section 20-3).

31-6: POOLING OF CERTAIN MORTGAGES WITH LEVEL PAYMENTS: PL POOLS

A project loan that meets the requirements of Section 31-5 may be pooled in a PL pool if it is a level payment project loan with a first scheduled payment date no more than 24 months before the issue date of the securities and has not been modified subsequent to FHA's final endorsement.

Monthly payments of principal on Ginnie Mae securities backed by a level payment mortgage will correspond to scheduled payments on the underlying mortgage. Principal payments due on the mortgage on the first of each month will be paid by the Issuer to security holders no later than the 15th day of the same month or, if payment is made by ACH transfer and the 15th day of the same month is not a business day, then on the first business day following the

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31-7: POOLING OF CERTAIN MORTGAGES WITH NON-LEVEL PAYMENTS: PN POOLS

(A) Non-level Payment Provisions

15th day of the same month.

Payments of interest to security holders will be calculated for the life of the securities in accordance with Section 15-4(A).

A project loan that meets the requirements of Section 31-5 may be pooled in a PN pool if it is a non-level payment project loan with a first scheduled payment date no more than 24 months before the issue date of the securities and has not been modified subsequent to FHA's final endorsement, or issuance of RD's Form RD 3565-4, Loan Note Guarantee.

Non-level payment mortgages are those on which the scheduled payments may increase or decrease one or more times during the mortgage term according to a predetermined schedule or contingent upon a defined event. The term does not include variable rate mortgages.

Non-level payment provisions may apply for various reasons, including but not limited to:

- (1) accelerated repayment schedules imposed by HUD as a result of state or local property tax abatement programs;
- (2) scheduled partial prepayment and recasting of mortgage loans for reasons unrelated to workout arrangements (e.g., reamortization of the loan after passing through to security holders the proceeds of a partial condemnation of the mortgaged property);
- (3) graduated payment mortgage plans;
- (4) balloon payment plans;
- (5) the use of other alternative mortgage instruments; and
- (6) mortgage contingencies that may alter the level of scheduled payments on loans, for example a provision that the failure of the mortgagor to meet a rental achievement standard would require a partial prepayment or recasting of the mortgage.

Except as modified by this section, all requirements applicable to PL pools set forth in this chapter apply to PN pools.

(B) Securities

Monthly payments of principal on Ginnie Mae securities backed by a mortgage with non-level payments will correspond to scheduled payments on the underlying mortgage. Principal payments due on the mortgage on the first of each month will be paid by the Issuer to security holders no later than the 15th day of the same month or, if payment is made by ACH transfer and the 15th day of the

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same month is not a business day, then on the first business day following the 15th day of the same month.

Payments of interest to security holders will be calculated for the life of the securities in accordance with Section 15-4(A).

Securities backed by a mortgage described in this Section 31-7 are distinguishable from other Ginnie Mae project loan securities by the suffix “PN” in each certificate number. In addition, the PN certificate will include the statement: “The amortization schedule for the pooled mortgage provides for non-level monthly installments as described in the prospectus for this issue.”

It is important that securities backed by non-level payment project loans be clearly differentiated from securities backed by level payment pools in all forward market and other transactions. In all communications relating to such transactions, Issuers must clearly disclose that the securities to be delivered are backed by a non-level payment pool. Also, before delivery, Issuers must obtain for their records from each dealer or investor to which the Issuer is selling securities, a confirmation statement clearly disclosing the nature of the pool underlying the securities to be delivered. An Issuer must retain these confirmation statements as records subject to Ginnie Mae’s right of inspection.

(C) Prospectus

The prospectus for the PN securities (Appendix IV-9) must include the material facts relating to the non-level payment feature of the project loan, in the format described below. If the project loan securities will be issued in exchange for construction loan securities, then the prospectus for the construction and permanent project loan securities (Appendix IV-10) must include the material facts relating to the non-level payment feature of the project loan.

The Issuer must submit to Ginnie Mae for approval, no later than it would be required to submit pool documents for the issuance of PN securities (whether project loan or construction loan securities), a narrative description of the material facts surrounding the non-level nature of anticipated payments on the securities. The description must be typed on the “Annex — Special Disclosure” under “Description of Non-level Payment Provisions” (see form HUD 1724 (Appendix IV-9)).

An illustrative example of such a narrative description follows:

ABC Gardens
Anywhere, NY
FHA Project No. 012-34567-PM
or RD Case No. 04-010-0820516744

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Ginnie Mae Pool No. 012345
Loan Amount \$3,160,000

Notice of Non-Level Payment Amortization Schedule:

The FHA or RD Note provides for repayment of the loan at a rate of 12.50 percent by 480 monthly payments as follows:

Payments 1 through 144 at \$34,735.91

Payments 145 through 480 at \$27,495.75

Repayment by level payment over the entire term of the loan would require 480 level payments of \$33,146.91. Thus, under this non-level payment amortization schedule, the Mortgagor will pay \$525,827.05 more in principal over the first twelve years of the loan than it would pay under a level amortization schedule. Accordingly, because the term of the mortgage remains 40 years, the accelerated repayment of principal during the first twelve years of the loan will result in the mortgagor's monthly payment of principal during the remaining 28 years of the loan being lower than it would be under a level amortization schedule. The rate of interest on the underlying loan will remain 12.5% throughout the term of the loan. The net payment to the investor will be calculated in accordance with the terms of the Certificates.

31-8: POOLING OF MATURE PROJECT MORTGAGES: LM POOLS

A project loan that meets the requirements of Section 31-5 may be pooled in an LM pool if it is (A) a project loan with a first scheduled payment date more than 24 months before the issue date of the securities or (B) a loan that has been modified by FHA after final endorsement.

LM loans may have level payment or non-level payment provisions.

(A) Required Pool Documents

In addition to pool documents required in Section 31-13, an Issuer of an LM pool must submit as part of the pool package a certification that:

- (1) Unless currently modified with the approval of FHA, the pooled loan has been a performing loan for the past 24 months without the need for an owner contribution.
- (2) Unless currently modified with the approval of FHA, the project has had sustained occupancy of at least 93 percent or, if the project is a nursing home, at least 90%, for the past 24 months.
- (3) Unless currently modified with the approval of FHA, the project has a reserve for replacement account funded in an amount equal to at least 24 monthly

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payments on the pooled loan.

- (4) The contract of mortgage insurance with FHA is in full force.
- (5) The mortgage is fully insured by FHA and not subject to a coinsurance contract.
- (6) Unless currently modified with the approval of FHA, the most recent project physical inspection performed supports a satisfactory or higher rating, and all repairs have been made and inspected by the mortgagee and determined to be satisfactory.
- (7) If the mortgaged property is subject to a project-based rental subsidy contract, the loan has been marked-to-market by HUD.
- (8) Unless currently modified with the approval of FHA, the project has a minimum debt service coverage of 117 percent.

For the exact wording of the certification, see Appendix III-21. The certification must be reproduced on the Issuer's letterhead without revision. Ginnie Mae will not consider requests to revise, or engage in negotiations regarding, the terms of the certification. Ginnie Mae will not accept or approve a certification that has been revised by an Issuer. Without the certification, the pool package is incomplete, and no security will be issued.

(B) Modified Loans: Additional Required Documents

In addition to the pool documents required in Section 31-8 (A), modified pools are also subject to the following requirements:

- (1) The pool documents must include a copy of the modification agreement approved by FHA.
- (2) A new custodial file is required in connection with the issuance of a pool backed by a modified loan. Many of the documents will be transferred from the original custodial file, but if any of the underlying conditions represented by the original pool documents have changed, new or supplemental documents must be executed and placed with the document custodian. For example, if the title insurance company issues a new policy on the modified mortgage or an endorsement to the original policy to include coverage of the mortgage modification, the new title policy or the endorsement and the existing title policy must be provided to the document custodian.
- (3) All other project loan pooling requirements (not

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including documentation) remain the same. This includes the requirement that loans may not be removed from a pool, and the pool terminated, unless a loan is 90 days or more delinquent or the registered security holders unanimously agree to the pool's termination. If a pooled project loan is not 90 days or more delinquent, the Issuer must comply with the procedures described in Section 20-3.

(C) Security Terminations

(1) Swaps

All project loan security terminations that will involve a swap of a new security for the existing security, rather than a termination through payment of cash to the existing investor, must be approved by Ginnie Mae in writing prior to execution of the transaction.

In connection with a proposed swap, the Issuer must submit all of the documents described in Sections 31-12 and 31-13.

(2) Termination through payment of cash

Terminations for cash are governed by Section 20-3.

(D) Securities

Securities backed by mortgages described in this Section 31-8 are distinguishable from other Ginnie Mae project loan securities by the suffix "LM" in each certificate number. In case of securities backed by non-level payment LM pools, the following text must appear in the LM certificate: "The amortization schedule for the pooled mortgage provides for non-level monthly installments as described in the prospectus for this issue."

It is important that securities backed by non-level payment LM loans be clearly differentiated from securities backed by level payment pools in all forward market and other transactions. In all communications relating to such transactions, Issuers must clearly disclose that the securities to be delivered are backed by a non-level payment pool. Also, before delivery, Issuers must obtain for their records from each dealer or investor to which the Issuer is selling securities, a confirmation statement clearly disclosing the nature of the pool underlying the securities to be delivered. An Issuer must retain these confirmation statements as records subject to Ginnie Mae's right of inspection.

(E) Prospectus

The prospectus for non-level payment LM securities (Appendix IV-9) must include the material facts relating to the non-level payment feature of the project loan, in the format described below. If the project loan securities will be issued in exchange for construction loan securities, then the

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prospectus for the construction and permanent project loan securities (Appendix IV-10) must include the material facts relating to the non-level payment feature of the project loan.

The Issuer must submit to Ginnie Mae for approval, no later than it would be required to submit pool documents for the issuance of non-level payment LM securities (whether project loan or construction loan securities), a narrative description of the material facts surrounding the non-level nature of anticipated payments on the securities. The description must be typed on the “Annex — Special Disclosure” under “Description of Non-level Payment Provisions” (see form HUD 1724 (Appendix IV-9)).

31-9: POOLING OF FHA SMALL LOAN AND RD SECTION 538/515 PROJECT MORTGAGES: LS POOLS

A project loan that meets the requirements of Section 31-5 may be pooled in an LS pool if the loan has not been modified subsequent to final endorsement or issuance of the RD permanent loan guarantee, is secured by a lien on a small project developed under FHA’s Small Loan Processing Procedures or an RD-guaranteed section 538/515 revitalization loan, and has a first scheduled payment date no more than 24 months before the issue date of the securities.

(A) Issuer Eligibility

In addition to the Issuer eligibility requirements set forth in Chapters 2 and 3, the Issuer must be approved to originate and service loans under the RD multifamily program and FHA’s Small Loan Processing Procedures.

(B) Pool Requirements

In addition to the requirements for a PN pool, the following are applicable:

- (1) One or more loans may be included in one pool;
- (2) All loans in an LS pool must have the same interest rate;
- (3) The loans may be level payment loans or non-level payment loans. Both loan types may be included in a single pool;
- (4) All loans in an LS pool must be issued and serviced by the same Issuer;
- (5) The minimum pool size for an LS type pool will be \$100,000;
- (6) The maximum term of each loan is 40 years;
- (7) The minimum number of units in a project is five; there is no maximum;
- (8) The security rate must be at least one-half of one percent (50 basis points) less than the mortgage rate. This floor of 50 basis points consists of 13 basis points

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for the Ginnie Mae guaranty fee and a minimum servicing fee of 37 basis points.

- (9) If an LS pool contains more than one loan, excess funds, as defined in Section 15-5, attributable to one loan may be used to cover deficiencies on one or more other loans in the same pool, subject to the limitations set forth in Section 15-5.
- (10) The section 538/515 rehabilitation loan must be in the first lien position.

(C) Prospectus

For each mortgage, the Issuer must state under “Other” on the “Annex —Special Disclosure,” which is attached to the prospectus for the LS securities (see Appendix IV-9): “The pooled mortgage(s) is/are a section 538/515 rehabilitation or small loan(s).”

31-10: POOLING OF MARK-TO-MARKET PROJECT MORTGAGES: RX POOLS

A project loan that meets the requirements of Section 31-5 may be pooled in an RX pool if the loan has not been modified subsequent to final endorsement, is secured by a lien on a Mark-To-Market project developed under HUD’s Office of Affordable Housing Preservation (OAHP) Processing Procedures, and has a first scheduled payment date no more than 24 months before the issue date of the securities.

(A) Issuer Eligibility

In addition to the Issuer eligibility requirements set forth in Chapters 2 and 3, the Issuer must be approved to originate and service loans under the OAHP’s Processing Procedures.

(B) Pool Requirements

In addition to the requirements for a PL pool, the following are applicable:

- (1) One or more loans may be included in one pool.
- (2) All loans in an RX pool must have the same interest rate.
- (3) Loans less than \$250,000 must be aggregated with other Mark-To-Market loans to meet the \$250,000 pool minimum.
- (4) The loans may be level payment loans or non-level payment loans. Both loan types may be included in a single pool.
- (5) All loans in an RX pool must be issued and serviced by the same Issuer.
- (6) The security rate must be at least one-half of one percent (50 basis points) less than the mortgage rate. This floor of 50 basis points consists of 13 basis

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points for the Ginnie Mae guaranty fee and a minimum servicing fee of 37 basis points.

(C) Prospectus

For each mortgage(s), the Issuer must state under “Other” on the “Annex —Special Disclosure,” which is attached to the prospectus for the RX securities (see Appendix IV-9): “The pooled mortgage(s) is/are a Mark-To-Market loan(s).”

31-11: CONVERTING A CONSTRUCTION LOAN POOL TO A PROJECT LOAN POOL

Construction loan securities are redeemed by the issuance of project loan securities to the security holders of the construction loan securities. Upon completion of the construction phase, the project is finally endorsed for FHA mortgage insurance. Upon final endorsement, the construction loan securities are terminated, and project loan securities are issued.

The procedures for converting to project loan securities (PL, PN, or LS pool) from construction loan securities (CL or CS pool) are as follows:

- (A) Consecutive pool numbers for the construction loan securities and the project loan securities must be reserved prior to issuance of the construction loan securities in accordance with Section 32-5(C). The higher pool number is to be used for the project loan securities.
- (B) Documents in the document custodian’s construction loan file must be withdrawn for inclusion in the document custodian’s project loan file. The Issuer must accomplish this by providing to the document custodian a Request for Release of Documents, form HUD 11708 (Appendix V-5).
- (C) The Issuer must prepare any additional documents required for both the document custodian’s certification and pool submission to the PPA. The required documents are identified in Sections 31-12 and 31-13.
- (D) When the construction loan securities mature, they must be redeemed by issuance of the project loan securities immediately after FHA’s final endorsement of the project loan mortgage.
- (E) If the amount of the insured loan at FHA’s final endorsement is less than the amount of the outstanding construction loan securities upon completion of the project (due to a difference between the loan amount and the certified costs or through amortizations), the Issuer must pay the construction loan security holders the difference between the

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outstanding principal amount of the construction loan securities and the outstanding principal amount of the smaller project loan securities at the time of the conversion.

31-12: REQUIRED DOCUMENTS FOR CERTIFICATION BY DOCUMENT CUSTODIAN

Prior to the issuance of securities, the documents listed below must be delivered for each pooled mortgage to the document custodian, who certifies to their receipt on the back of the Schedule of Pooled Mortgages, form HUD 11706 (Appendix III-7). For project loan pools, there are no separate “initial” and “final” certifications, but only a single, final certification made prior to the issuance of the securities.

- (1) The original of the note or other evidence of indebtedness endorsed for insurance by FHA and endorsed or assigned in blank by the Issuer, or original of the note or other evidence of indebtedness endorsed or assigned in blank by the Issuer and the Form RD 3565-4, Loan Note Guarantee signed by RD.
- (2) An executed original Release of Security Interest, form HUD 11711A (Appendix III-5), relating to the pooled mortgage, if applicable.
- (3) An executed original Certification and Agreement, form HUD 11711B (Appendix III-5), signed by an officer of the Issuer.
- (4) The recorded original of the mortgage or deed of trust securing payment of the indebtedness. A title insurance company-certified copy may be used to certify the pool, but when the Issuer receives the recorder-certified copy, the Issuer must submit it to the document custodian.
- (5) A duplicate original standard title insurance policy containing such provisions as are required by FHA or RD.
- (6) Copies of Uniform Commercial Code (UCC) forms or other security documents pertaining to personalty evidencing recordation with the appropriate office and an original assignment of such security documents to Ginnie Mae in recordable form but unrecorded. Issuers must keep UCC filings current while a loan is in the pool.
- (7) Original Transfer of Letter of Credit, if applicable (see Appendix VI-3, Item D).

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- (8) If the loan is coinsured, a special warranty deed conveying to Ginnie Mae ownership of the property underlying the mortgage, including any after-acquired title of the Issuer. The deed must be in recordable form but unrecorded.
- (9) Such other documents as Ginnie Mae may require.

Special Requirements for RD-guaranteed loans:

For an RD loan to be eligible, the following additional requirements apply:

- (1) The RD loan must be made under the Section 538 Guaranteed Rural Rental Housing Program of the Department of Agriculture. The maximum amount of the loan that can be securitized may not exceed 50% of the total development costs as certified by Rural Development on Form RD 3565-4, Loan Note Guarantee (Multifamily Housing). (The section 538/515 rehabilitation loans have no such requirement.)
- (2) Once an RD loan is pooled, some of the loan servicing options offered by RD are not available. All subcontract servicing agreements must be in accordance with the requirements set forth in Sections 2-15, 3-20 and 4-3.
- (3) In addition to the documents listed in Section 10-3, the Form RD 3565-4, Loan Note Guarantee (as evidence of the RD guaranty), Lenders Agreement and Form 3565-2, Conditional Commitment, must be deposited with the document custodian at the time of certification.

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The loan documents required for certification by the document custodian are listed in the following table:

DOCUMENT	FORM NUMBER	APPENDIX
Schedule of Pooled Mortgages	HUD 11706	III-7
Release of Security Interest, executed original, if applicable	HUD 11711A	III-5
Certification and Agreement, executed original	HUD 11711B	III-5
Original note (or, in the case of a modified loan, the original note and the allonge, modification agreement, or other evidence of the modification), endorsed for FHA insurance, if an FHA loan or loan guaranteed by RD through the issuance of the Loan Note Guarantee and endorsed in blank, without recourse		
Original recorded mortgage or other security instrument of indebtedness		
Duplicate original title insurance policy		
Copies of recorded UCC personal property forms		
UCC assignment to Ginnie Mae in recordable form but not recorded		
Original Transfer of Letter of Credit (if applicable) (see Appendix VI-3, Item D)		
Special warranty deed (if applicable)		
For RD loans, the Loan Note Guarantee, the Lender's Agreement and the Conditional Commitment		
Any other documents required by Ginnie Mae		

31-13: REQUIRED DOCUMENTS FOR APPROVAL BY PPA AND GINNIE MAE

In addition to the documents described in Section 10-3, the Issuer must deliver the following pool documents to the PPA not later than 3 business days prior to the anticipated delivery date of the securities. See Chapter 10 for detailed instructions on the delivery of these documents.

- (A) A copy of the mortgage note or other form of indebtedness, evidencing the final FHA insurance endorsement.
- (B) For RD loans, a copy of Form RD 3565-4, Loan Note Guarantee, a copy of Form RD 3565-3, Lender's Agreement, and a copy of Form RD 3565-2, Conditional Commitment.
- (C) Schedule of Subscribers and Ginnie Mae Guaranty Agreement, Form HUD 11705, which must indicate in Pool Type "PL," "LM," "LS," or "RX" securities (Appendix III-6)
- (D) Schedule of Pooled Mortgages, form HUD 11706 (Appendix III-7).
- (E) Prospectus, form HUD 1724 (Appendix IV-9) for

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project loan securities only or form HUD 1731 (Appendix IV-10) for FHA construction loan securities that will be converted to project loan securities.

The Issuer must specify on the “Annex — Special Disclosure,” which is attached to the prospectus, the prepayment provisions of the note (which must include any provision detailing prepayment privileges or penalties). If, for example, the loan may not be prepaid in full for a specified period or partial prepayments are restricted, these requirements must be disclosed in the annex to the prospectus. If there are no prohibitions against voluntary prepayment, that must be stated in the annex to the prospectus. (If a prepayment premium or charge is collected, it must be passed through to security holders as an additional payment apart from the amortization of principal of the securities and from required interest.)

If amortization of the mortgage and, consequently, amortization of the securities will not commence immediately, this deferred amortization must be described. It must be made clear that while amortization may be deferred because of provisions of the underlying mortgage, interest, as required by the security, will be paid by the 15th of each month or, if payment is made by ACH transfer and the 15th day of the month is not a business day, then on the first business day following the 15th day of the month, commencing 45 days after the issue date of the security.

If the securities are backed by an LM, LS or RX pool, the prospectus annex must contain the provisions described in Sections 31-8(E), 31-9(C) or 31-10(C), as applicable.

In cases where the project loan securities are conversions from construction loan securities, the prospectus used to cover the overall issuance is form HUD 1731 (Appendix IV-10). It is issued to security holders prior to issuance of the construction loan securities.

- (F) If the FHA assignment fee is to be waived by FHA, a written certification by the Issuer to the effect that the assignment fee is not applicable.
- (G) For loans sold in a Ginnie Mae-approved auction, a copy of a notice of acceptance of the bids duly executed by an authorized official of the agency

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holding the auction.

- (H) For an LM pool, Certification Requirements for the Pooling of Multifamily Mature Loan Program (Appendix III-21).
- (I) Application for Insurance of Advances, form HUD 92403, if converting CL or CS securities.

The following table lists the pool documents to be sent to the PPA for approval of project loan pools:

DOCUMENT NAME	FORM NUMBER	APPENDIX
Copy of mortgage note	--	--
Schedule of Subscribers and Ginnie Mae Guaranty Agreement	HUD 11705	III-6
Schedule of Pooled Mortgages	HUD 11706	III-7
Master Servicing Agreement	HUD 11707	III-1
Master Agreement for Servicer's Principal and Interest Custodial Account	HUD 11709	III-2
Agreements for Servicer's Escrow Custodial Account; include additional copy for Sec. 223(f) repair escrows and loan escrows, if applicable	HUD 11720	III-3
Master Custodial Agreement	HUD 11715	III-4
Prospectus, PL, PN, LM, LS and RX issuance only	HUD 1724	IV-9
Prospectus, CL or CS to PL or PN conversion	HUD 1731	IV-10
Application for insurance of advance if converting construction loan securities	HUD 92403	
For RD loans, the Loan Note Guarantee, the Lender's Agreement and the Conditional Commitment	Form RD 3565-4 Form RD 3565-3 Form RD 3565-2	
Executed copy of notice of acceptance of pooling, for loans sold in auction	--	--
Copy of assignment fee waiver (if applicable)		
Certification Requirements for the Pooling of Multifamily Mature Loan Program (LM only)		III-21

All project loan security terminations that will involve a swap of a new security for the existing security, rather than a termination through payment of cash to the existing investor, must be approved by Ginnie Mae in writing prior to execution of the transactions.

See Chapter 32-9(c) for required documents for Construction Loan to Project Loan Conversion.

31-14: SECURITIES: Without Ginnie Mae's prior written approval of a different rate,

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INTEREST RATE

the interest rate on project loan securities is:

- (A) for securities backed by a PL, PN, or LM pool, at least one-quarter of one percent (25 basis points) but not more than one-half of one percent (50 basis points) below the annual interest rate on the pooled project loan; and
- (B) for securities backed by an LS or RX pool, at least one-half of one percent (50 basis points) below the annual interest rate on the pooled project loan or loans.

31-15: POOL AND LOAN SERVICING

(A) Payments to Security Holders

In addition to the requirements set forth in Chapter 15, Issuers must pass through to security holders in the month following receipt any prepayment penalty collected in accordance with the terms of the mortgage.

Multifamily Issuers who fail to report prepayment penalties and pay in the month of pool payoff will be subject to sanctions by Ginnie Mae.

(B) Escrow Deposit Requirements

All FHA or RD-required escrows established for the benefit of a multifamily insured project loan securitized by a Ginnie Mae MBS must comply with the following requirements:

- (1) Savings, checking, and insured money market accounts:

An Issuer may deposit tax and insurance escrow funds, as well as other required FHA or RD escrows, in interest-bearing accounts or accounts established in accordance with Ginnie Mae's requirements. These accounts must be insured by the FDIC or NCUA and must be established in accordance with all requirements of the Master Agreement for Servicer's Escrow Custodial Account, form HUD 11720 (Appendix III-3). These accounts must be consistent with the criteria in Section 16-5.

If the account balance exceeds \$100,000, the institution must meet the criteria for such balances described in Section 16-8. Disposition of all earnings associated with FHA loans must be in accordance with FHA requirements regarding interest on escrows in HUD-FHA Handbooks 4350.1 and 4350.4. Disposition of all earnings associated with RD loans must be in accordance with RD requirements regarding interest on escrows.

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(2) Certificates of deposit:

Issuers may use certificates of deposit (CD) for escrow accounts, if permitted by FHA or by RD. The CD must be issued by an institution insured by the FDIC or NCUA. If the CD exceeds \$100,000, the institution must meet the rating requirements of Section 16-7. The CD must be held in trust for the project, with the trustee being the Issuer and Ginnie Mae. The trustee-name styling of the CD must be, “(Name of Issuer) and/or Ginnie Mae, as their interests may appear.” Disposition of earnings must be in accordance with FHA requirements regarding interest on escrows in HUD-FHA Handbooks 4350.1 and 4350.4 or in accordance with RD requirements regarding interest on escrows.

(3) U.S. treasury bills, notes, bonds, and other obligations of the U.S. Government:

Issuers may use direct obligations of the federal government backed by the full faith and credit of the United States and obligations of federal government agencies as escrow deposits, as permitted by FHA or by RD. These include U.S. treasury bills, notes, and bonds, Ginnie Mae MBS, Ginnie Mae Participation Bonds, and Farm Credit Administration issues. The assets must be held in trust for the project, the trustee being the Issuer and Ginnie Mae. The trustee-name styling of the asset must be, “(Name of Issuer) and/or Ginnie Mae, as their interests may appear.” Disposition of earnings must be in accordance with FHA requirements regarding interest on escrows in HUD-FHA Handbooks 4350.1 and 4350.4, or in accordance with RD requirements regarding interest on escrows.

(4) Letters of credit:

All multifamily project escrows established by an irrevocable, unconditional letter of credit, as permitted by FHA or by RD, must meet the following criteria. The format of the letter of credit must follow that in Appendix VI-3, and the Issuer must be named as beneficiary. The Issuer must execute, in blank, a Transfer of Letter of Credit using the format included in Appendix VI-3, the original of which must be filed with the document custodian. Any substitute letter of credit or extension that changes the letter of credit number or any terms or conditions of the letter of

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credit will require a new execution in blank and filing of a Transfer of Letter of Credit form. The issuing bank must meet the rating requirements of Section 16-8.

(5) Other acceptable assets:

Issuers of securities backed by FHA loans may use as escrow deposits AAA-rated, Ginnie Mae-collateralized, tax-exempt bonds and AAA-rated, prerefunded bonds, as permitted by FHA. Prerefunded bonds are bonds that originally may have been issued as general obligation or revenue bonds but are now secured, until the call date or maturity, by an “escrow fund” consisting entirely of direct U.S. Government obligations that are sufficient for paying the bondholders. These assets must be held in trust for the project, the trustee being the Issuer and Ginnie Mae. The trustee-name styling of the asset shall be, “(Name of Issuer) and/or Ginnie Mae, as their interests may appear.” Disposition of earnings must be in accordance with FHA requirements regarding interest on escrows in HUD-FHA Handbooks 4350.1 and 4350.4.

(C) Reamortization

A PL pool may not be reamortized as a result of a partial loan curtailment. Reamortization is permitted only under the PN, LM, and LS programs described in Sections 31-7, 31-8, and 31-9, respectively.

(D) Mortgage Default

If the mortgagor defaults under the mortgage loan, the Issuer must exercise its business judgment in determining whether to forbear on the mortgage (with Ginnie Mae, FHA, RD and mortgagor written approval), assign the mortgage to FHA or RD, or foreclose or accept a deed in lieu of foreclosure and convey the property to FHA or to RD.

(1) Notice to Ginnie Mae on Issuer’s option:

- (a) If the Issuer proposes to forbear, it must notify Ginnie Mae in writing and obtain Ginnie Mae’s approval prior to the implementation of a forbearance agreement.

The notification must include an analysis of the effect of forbearance on the Issuer’s financial condition and ability to remain in business. If the Issuer forbears, it must make advances to security holders so that they will receive, until the mortgage is liquidated, interest payments at the rate provided in the security and principal as scheduled in the

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initial amortization schedule.

- (b) Once the Issuer determines that it will assign or otherwise liquidate the mortgage, it must notify Ginnie Mae promptly.
 - (c) Requests for forbearance and notice of liquidation must be sent to the Office of Mortgage-Backed Securities (see Addresses).
 - (d) All proceeds from any claim settlement (whether partial or full) from FHA guarantee payment (whether partial or full) from RD or from the sale or other disposition of the property must be deposited immediately into the pool P&I custodial account pending disbursement to security holders.
- (2) Claim payments to be passed through to security holders:

The Issuer must pass through to security holders the initial claim payment from FHA, or the estimated loss claim payment from RD no later than the 15th day of the month following the monthly reporting period in which the Issuer receives the claim payment. If the 15th day is not a business day and the payment is made by ACH transfer, the Issuer must make the payment on the first business day following the 15th day. The Issuer must also pass through any coinsurance obligation in accordance with Section 31-15(B).

Following receipt of the initial claim settlement from FHA, or the estimated loss claim payment from RD, the Issuer has two options with respect to payments to security holders:

- (a) Option 1: Each monthly payment to security holders must consist of:
 - (i) interest at the rate specified in the securities on the remaining principal balance of the securities at the end of the prior month;
 - (ii) the next principal payment due on the mortgage under the initial amortization schedule, determined without regard to the initial claim payment having occurred; and
 - (iii) any unscheduled recoveries of

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principal received during the related monthly reporting period.

- (iv) When either the final claim payment from FHA, or the final loss claim payment from RD is received, the Issuer must pay to the security holders by the 15th of the following month the full amount necessary to fully liquidate the remaining principal balance of, and interest due on, the securities, if any. If the FHA claim or RD guarantee payment is not enough to cover this amount, the Issuer must supply its own funds to do so. If the 15th day is not a business day and the payment is made by ACH transfer, the Issuer must make the payment on the first business day following the 15th day.
- (b) Option 2: The Issuer may elect to use its own funds to pass through to the security holders, together with the initial claim payment, the full remaining principal balance of the securities.
- (3) Reimbursement of allowable costs:
 - (a) Reimbursement for interest paid to security holders after loan default

If a default on a pooled FHA mortgage occurs during the life of the pool, Ginnie Mae will reimburse the Issuer for 85% of the excess, if any, of the interest paid by the Issuer to the security holders after the date of default on the mortgage, less the net interest paid to the Issuer by HUD under the FHA claim settlement procedure. This right to reimbursement is available only for fully-insured FHA loans and not for coinsured or RD loans. (See Request for Reimbursement of Mortgage Insurance Claim Costs (Appendix VI-9) for the claim form)

The Issuer must expeditiously process through to final settlement the necessary requests to FHA for insurance benefits, including all filings for supplemental benefits, prior to filing a claim with Ginnie Mae. The claim must be filed within 60 days of the final FHA claim payment or final supplemental

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benefit payment, as established by the date of the FHA transmittal letter. Ginnie Mae will not reimburse Issuers for interest shortfalls in the form of surcharges levied by FHA because required notices to FHA are not filed on time.

(b) Reimbursement of assignment fee

If a default on a pooled FHA mortgage occurs during the life of the pool, Ginnie Mae will reimburse the Issuer the assignment fee.

(c) Notice of claim to Ginnie Mae

The Issuer must notify Ginnie Mae at the earliest possible date of its intent to request reimbursement of allowable FHA mortgage insurance claim costs and, where appropriate, its intent to request that Ginnie Mae purchase debentures. Ginnie Mae will then forward the forms and guidelines for the completion of these transactions. The reimbursement of allowable costs, however, will be made only after the security holders have been paid in full and the securities have been forwarded to the CPTA for cancellation.

(d) Issuer default

Ginnie Mae will not reimburse under paragraphs (a) or (b) above any Issuer that has been declared in default under any Guaranty Agreement.

(4) Debentures:

Effective December 1, 2003, Ginnie Mae will not reimburse under paragraphs 3(a) or 3(b) above, any Issuer who elects to receive insurance benefits in FHA debentures.

For reimbursement claims submitted prior to December 1, 2003, where FHA insurance benefits have been paid in the form of debentures, the Issuer must comply with the Guide at Section 31-15(D)(4) to transfer the debentures to Ginnie Mae, as a condition for Ginnie Mae to reimburse the Issuer pursuant to Sections 31-15(3)(a) and (b).

Proceeds from the sale of debentures to Ginnie Mae shall be deposited by the Issuer immediately into the pool P&I custodial account. These funds must be disbursed to security holders in the month following

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the reporting month of receipt unless the pool has been previously liquidated by the Issuer.

(E) Maturity of Certain Project Loan Pools

If a project loan pool contains a single loan and the Issuer receives the final payment, whether scheduled or unscheduled, on the pooled loan from the borrower, the pool is considered to have matured as discussed in Section 20-2. This transaction must not be treated as an early termination under Section 20-3.

31-16: SERVICING OF COINSURED MORTGAGES

Except as modified by this section, servicing requirements applicable to project loan securities outlined in this Chapter are applicable to securities backed by coinsured mortgages. In addition to this chapter, an Issuer should refer to the related FHA regulations (24 CFR Part 251, Part 252, or Part 255, 4-1-90 Edition) to determine the scope of its coinsurance obligations.

(A) Issuers Eligible to Service Coinsurance Loans

To be eligible to service project loan securities backed by coinsured mortgages, an applicant, in addition to being a standard FHA-approved mortgagee, must be approved by FHA as a coinsuring lender.

(B) Risks and Liability

In addition to the standard risks and liabilities of an Issuer of project loan securities, an Issuer of securities backed by a coinsured project loan is obligated to pass through to security holders from its own funds the amount of its coinsurance obligation, on the 15th of the month or, if payment is made by ACH transfer and the 15th day of the month is not a business day, then on the first business day following the 15th day of the month, following the month in which any initial or final claim settlement is received from FHA or other final disposition of the claim is made by FHA with respect to the pooled project loan. Even if supplemental payments may be made by FHA, the Issuer must pass through to security holders its entire coinsurance obligation at the time the first payment is received from FHA.

Ginnie Mae will not assume the Issuer's coinsurance obligations under any circumstance.

(C) Mortgage Default and Claims Procedure

- (1) Except for mortgages covering property rehabilitated with assistance under 24 CFR Part 511 or Part 850 (i.e., involving certain Housing Development Grant and Rental Rehabilitation Grant projects), FHA coinsurance claim benefits will be collectible only after the Issuer's acquisition of the property securing the mortgage by foreclosure or otherwise and the earlier of (a) the sale of the property, and (b) the expiration of twelve months from the date of acquisition of title.

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- (2) FHA coinsurance claim benefits for mortgages covering property rehabilitation under 24 CFR Part 511 or Part 850 are payable upon the acquisition of marketable title.

***(D) Payment of Issuer's
Coinsurance Obligation to
Security Holders***

Payment of the Issuer's coinsurance obligation must be made in accordance with Section 31-16(B).

***(E) Issuer Default and
Conversion through
Modification of Coinsured
Loan to Full Insurance
Coverage***

If an Issuer defaults under any of its Guaranty Agreements, Ginnie Mae has the right to extinguish the Issuer's rights in all mortgages backing MBS, to perfect an assignment to itself of any pooled coinsured mortgage, whether or not the mortgage is in default, and to obtain endorsement of the note for full insurance by FHA as of the date of the assignment.

***(F) Issuer Default Following
Liquidation of Coinsured
Mortgage***

If an Issuer is declared in default by Ginnie Mae after acquiring title to a property that secured a coinsured mortgage ("coinsured property"), Ginnie Mae will have the right to obtain all coinsurance benefits with respect to the mortgage pursuant to 24 CFR §251.827. In anticipation of the possibility of a declaration of default by Ginnie Mae under these circumstances, the Issuer must facilitate Ginnie Mae's collection of coinsurance benefits by depositing with the pool document custodian a special warranty deed conforming to local law, conveying the coinsured property to Ginnie Mae. The deed will be required for certification of the pool, must be in recordable form but unrecorded, and must convey any after-acquired title of the Issuer.

***(G) Pooling of Converted
Coinsured Mortgages***

Coinsured mortgages that are converted to fully-insured mortgages through modifications are eligible for pooling if they otherwise satisfy the applicable program requirements.

***31-17: Servicing of RD
Guaranteed Loans***

Except as modified by this Section, servicing requirements applicable to non-level payment project loan securities outlined in this chapter are applicable to securities backed by RD guaranteed mortgages. In addition to this Chapter, an Issuer should refer to the related US Department of Agriculture Regulations at 7 CFR Section 3565 *et seq.*, Guaranteed Rural Rental Housing Program, and to the US Department of Agriculture, Rural Development Handbook HB-1-3565 Guaranteed Rural Rental Housing Program Origination and Servicing Handbook to determine the scope of its obligations.

***(A) Issuers Eligible to
Service RD Guaranteed
Loans***

To be eligible to service non-level payment project loan securities backed by RD guaranteed Section 538 mortgages, an applicant must comply with Chapter 31, Section 2, and must be approved by RD.

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(B) Risks and Liabilities

In addition to the standard risks and liabilities of an Issuer of non-level payment project loan securities, an Issuer of securities backed by an RD guaranteed loan is obligated to pass through to security holders from its own funds the entire balance of the loan that is not guaranteed by RD on the 15th of the month. Or, if payment is made by electronic transfer and the 15th day of the month is not a business day, then funds must be passed through on the first business day immediately preceding the 15th day of the month following the month in which any estimated or final loss claim payment is received from RD, and/or any other final disposition of the guarantee is made by RD with respect to the pooled loan. Even if supplemental payment may be made by RD, the Issuer must pass through to security holders the entire balance of the loan that is not covered by the RD guarantee at the time the first payment on the guarantee is received from RD. Ginnie Mae will not be liable, under any circumstance, for any loan amounts that are not guaranteed by RD.