



MEMORANDUM

TO: The Chairperson and Members

FROM: Eric Enderlin *J.E. E.*

SUBJECT: REMIC COVID-19 Forbearance Policy (NYCRs)

DATE: July 29, 2020

Proposal

The Members are requested to approve the REMIC COVID-19 Forbearance Policy that would permit the temporary waiver of certain requirements of the REMIC Master Policy of Insurance (the “Master Policy”) with the Community Preservation Corporation (“CPC”), to permit the filing of partial claims for loss related to certain CPC-serviced NYCRs¹ loans which are insured by REMIC (the “Forbearance Policy”).

Background

Certain borrowers have requested debt forbearance, attesting that the COVID-19 pandemic has adversely impacted rental income collections at their properties, reducing operating income to a level insufficient to cover debt service. These borrowers report an average of fifty-two percent (52%) tenant non-payment due to the pandemic, a metric that has an outsized impact on their properties which range in size from three (3) to thirty-five (35) units.

Following the borrowers’ requests for debt forbearance, NYCRs requested that REMIC consider permitting NYCRs to file claims for loss on payments forborne under agreements approved by NYCRs. Having received approval from the State of New York Mortgage Agency (SONYMA) to file such claims on loans insured by SONYMA, NYCRs indicated that its approval of debt forbearance on loans insured by REMIC would be contingent on REMIC’s approval of the request

¹ NYCRs refers to the Teachers’ Retirement System of the City of New York, the New York City Employees’ Retirement System, the New York City Police Pension Fund, the New York City Fire Pension Fund, and the Board of Education Retirement System of the City of New York, collectively identified as NYCRs under the Economically Targeted Investments Program of the Office of the New York City Comptroller.

to permit the filing of claims. Under the Master Policy, REMIC would be unable to approve such claims, as the forbearance offered by NYCRRs does not meet the requirements for filing a claim.

Consistent with the CARES Act, the terms of the forbearance offered by NYCRRs includes three (3) consecutive months of forbearance of principal, interest, and escrow payments. Borrowers are required to repay the forborne amounts in no more than eighteen (18) equal monthly installments, commencing with the first calendar month following the end of the forbearance period. REMIC would be unable to offer support under the Master Policy, as conditions precedent to filing a claim, including four (4) months of default², and certain notification and enforcement requirements, would not be satisfied.

Terms

Under the proposed Forbearance Policy, REMIC would waive certain requirements of the Master Policy, permitting non-payment for three months pursuant to a forbearance agreement to be deemed a covered default for which NYCRRs would be entitled to file a claim. REMIC would pay such claims and be reimbursed as borrowers repay the forborne amounts within the maximum allowed 18-month period. The terms of the Forbearance Policy would be documented in an agreement between REMIC and PENY & Co., LLC, as nominee for NYCRRs.

The proposed Forbearance Policy is intended to address a request related to a defined subset of REMIC's NYCRRs portfolio. At this time, the Forbearance Policy would apply to nine senior position loans with an aggregate outstanding principal of approximately \$3.68 million, and total scheduled monthly principal and interest payments of approximately \$26,783.23. However, due to the economic uncertainty associated with the ongoing pandemic, it is anticipated that NYCRRs may receive additional requests for debt forbearance for NYCRRs loans insured by REMIC. Therefore, the Members are requested to authorize REMIC staff to review and approve additional NYCRRs loans insured by REMIC to be covered under the Forbearance Policy if requested by NYCRRs based on a borrower's declaration of financial hardship during the COVID-19 emergency. The Forbearance Policy would also apply to extensions of forbearance agreements subject to the prior consent of REMIC staff.

The Members are requested to approve the Forbearance Policy and such delegation of authority as described in the preceding paragraph for a temporary period not to exceed December 31, 2021.

As of June 30, 2020, the outstanding principal balance on all NYCRRs loans insured by REMIC, including the nine loans described above, was approximately \$13.9 million, and the total of scheduled monthly principal and interest payments was \$136,717.

Risk and Risk Mitigation

The primary risk associated with the Forbearance Policy is borrower default. As required by its enabling statute, REMIC covers such risk by maintaining reserves of no less than twenty percent (20%) of insurance in effect plus commitments to insure. As of June 30, 2020, REMIC's reserves totaled approximately \$149.2 million, including approximately \$84.5 million in restricted reserves (twenty percent (20%) of insurance and commitments), and \$64.7 million in unrestricted reserves. To cover potential claims under the Forbearance Policy, REMIC will allocate additional restricted

²Four (4) months of default means the failure to pay a total aggregate amount equal to four (4) regular monthly payments of principal and interest and any escrow payments due under the terms of a Mortgage Loan, disregarding any waivers or extensions by the Insured.

reserves equal to one hundred percent (100%) of the insured amount of the nine covered loans. If any additional NYCRRs loans are determined to be eligible for coverage under the Forbearance Policy by REMIC staff, the reserves for such loans would be increased to one hundred percent (100%) of the insured amount.

As an additional risk mitigation measure, the Forbearance Policy will include a requirement that the New York City Housing Development Corporation (HDC) be permitted to refinance loans covered under the Forbearance Policy, without the consent of NYCRRs or CPC.

Action by the Members

The Members are requested to approve (i) the Forbearance Policy that would permit the temporary waiver of certain requirements of the REMIC Master Policy of Insurance with the Community Preservation Corporation to permit the filing of partial claims for loss related to certain NYCRRs loans insured by REMIC; (ii) the delegation of authority to REMIC staff to review and approve additional NYCRRs loans insured by REMIC to be covered under the Forbearance Policy; (iii) the Forbearance Policy and such delegation of authority as described in clause (i) and (ii) for a temporary period not to exceed December 31, 2021; and (iv) the execution by an Authorized Officer of REMIC of any documents necessary to effectuate the Forbearance Policy.