
MBA LIHTC Committee Update

Current & Future Initiatives

March 5, 2018

Eastern Lenders Association
Baltimore, MD



Agenda

- A. Training & Education
- B. Current Policy Initiatives
- C. Future Policy Initiatives

A. Training & Education

1. Environmental Training for Lenders

To be provided by HUD HQ at that next LIHTC Committee Call, tentatively for end of March.

2. Affordable Training for HUD Staff

The LIHTC Committee and HQ have begun working on setting up affordable training for HUD staff. Details are still to be determined. Stay tuned for more information

B. Current Policy Initiatives

1. (d)(4) Pilot

Final approval pending.

2. GP Pledge for EBL

Final approval pending.

C. Future Policy Initiatives

1. Waiver of 2% Working Capital for Tenant-In-Place (TIP) Rehabilitations

Request: Waive the 2% Working Capital for TIP Rehabs as long as an analysis is provided that adequately shows risk mitigation – i.e., sufficient construction-period NOI to pay for Working Capital-allowed items.

2. Delayed Submittal of e-Tool for New Construction & Substantial Rehabilitations Only

Request: Under Streamlined AEC Submission for Affordable deals, delay submission of e-Tool until submission of Final AEC Report in accordance with Streamlined Submission guidance. (The e-Tool must still be submitted with the Firm Application for 223(f)s.)

Churchillian Interlude

“The English never draw a line without blurring it.”

- Sir Winston Churchill

“Lenders never let HUD draw a line without blurring it, moving it, or trying to erase it altogether.”

- HUD

Future Policy Initiatives (cont'd)

3. Extentension of the Term of the Equity Bridge Loan

Request: Allow the term of the EBL to extend past Final Endorsement/100% Completion. This extension will boost tax credit equity with little to no additional risk to HUD.

4. Deferred Developer Fee (DDF)

Request: Allow the DDF to be only an obligation under the partnership agreement (backed by the guarantor) only rather than a surplus cash note by a "middle tier" or "upper tier" entity.

Contacts

MBA LIHTC Committee

Chair

Tracy W. Peters
Senior Managing Director
RED Capital Markets, LLC
10 West Broad Street, 8th Floor
Columbus, OH 43215
twpeters@redcapitalgroup.com
tel: 614.857.1656
efax: 614.857.9758

Vice Chair

Terry Wellman
Senior Vice President
FHA Chief Underwriter
Multifamily
PNC Real Estate
19382 Sierra Perla
Irvine, CA 92603
terry.wellman@pnc.com
Office: 949.333.3897
Cell: 949.241.5490

MBA

Sharon Walker
Associate Vice President
Commercial/Multifamily Group
Mortgage Bankers Association
1919 M Street, NW, 5th Floor
Washington, DC 20036
swalker@mba.org
TEL: 202.557.2747
mba.org

Rita Kelly
Administrative Assistant
Commercial/Multifamily Group
Mortgage Bankers Association
1919 M Street, NW, 5th Floor
Washington, DC 20036
rkelly@mba.org
TEL: 202.557.2744
mba.org

LIHTC Committee Mailing List

To join the LIHTC Committee mailing list, please send an email to:

krita@mba.org and swalker@mba.org

FHA GNMA Loans with Tax Exempt Bonds and 4% LIHTC for Affordable Transactions

March 2018



TIBER HUDSON

Kent Neumann, Esq.
Tiber Hudson LLC
Washington, DC

Direct: (202) 973-0107
Cell: (703) 568-0190
kent@tiberhudson.com

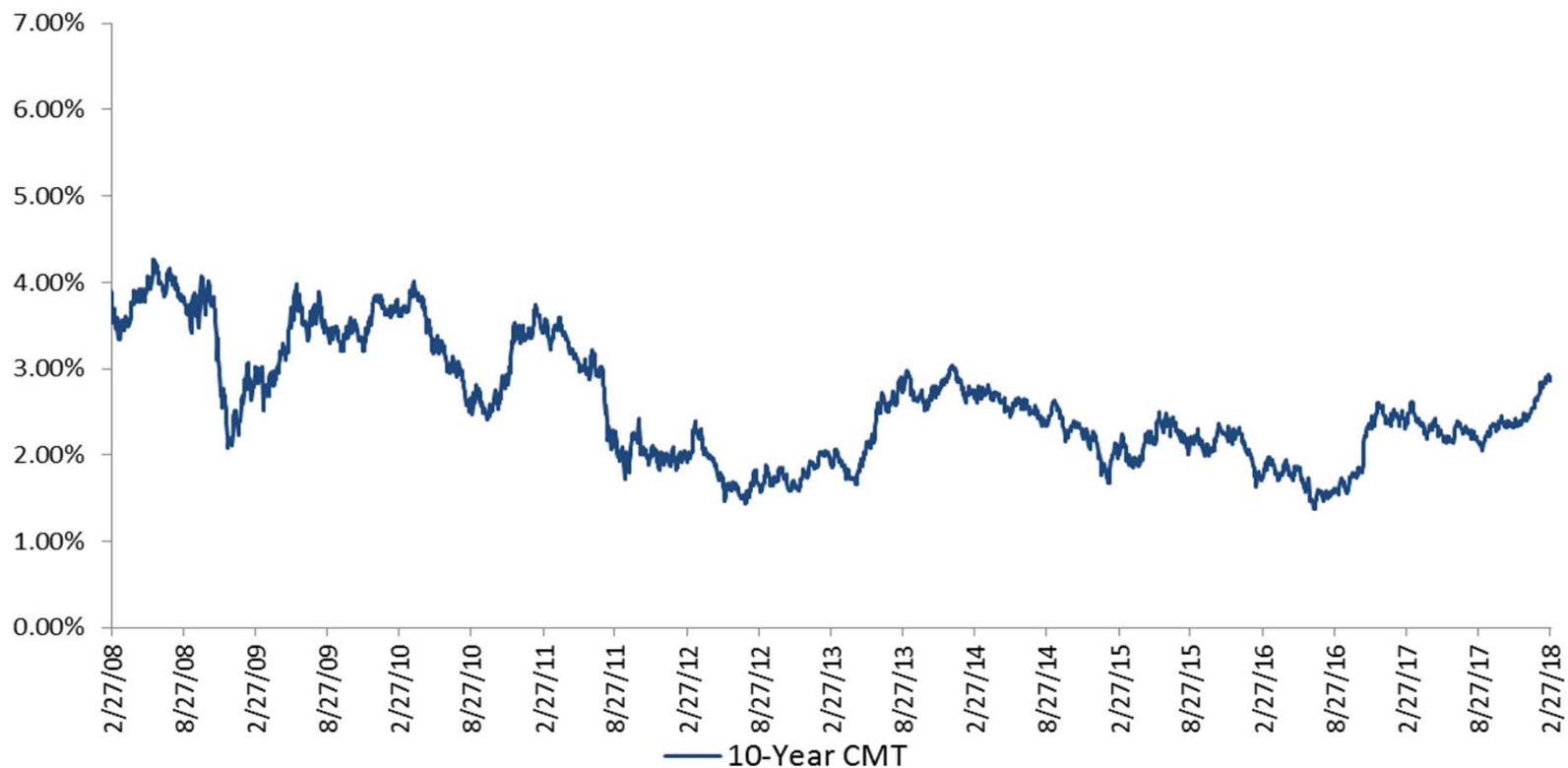


Impact of Tax Reform

(The Tax Cuts and Jobs Act)

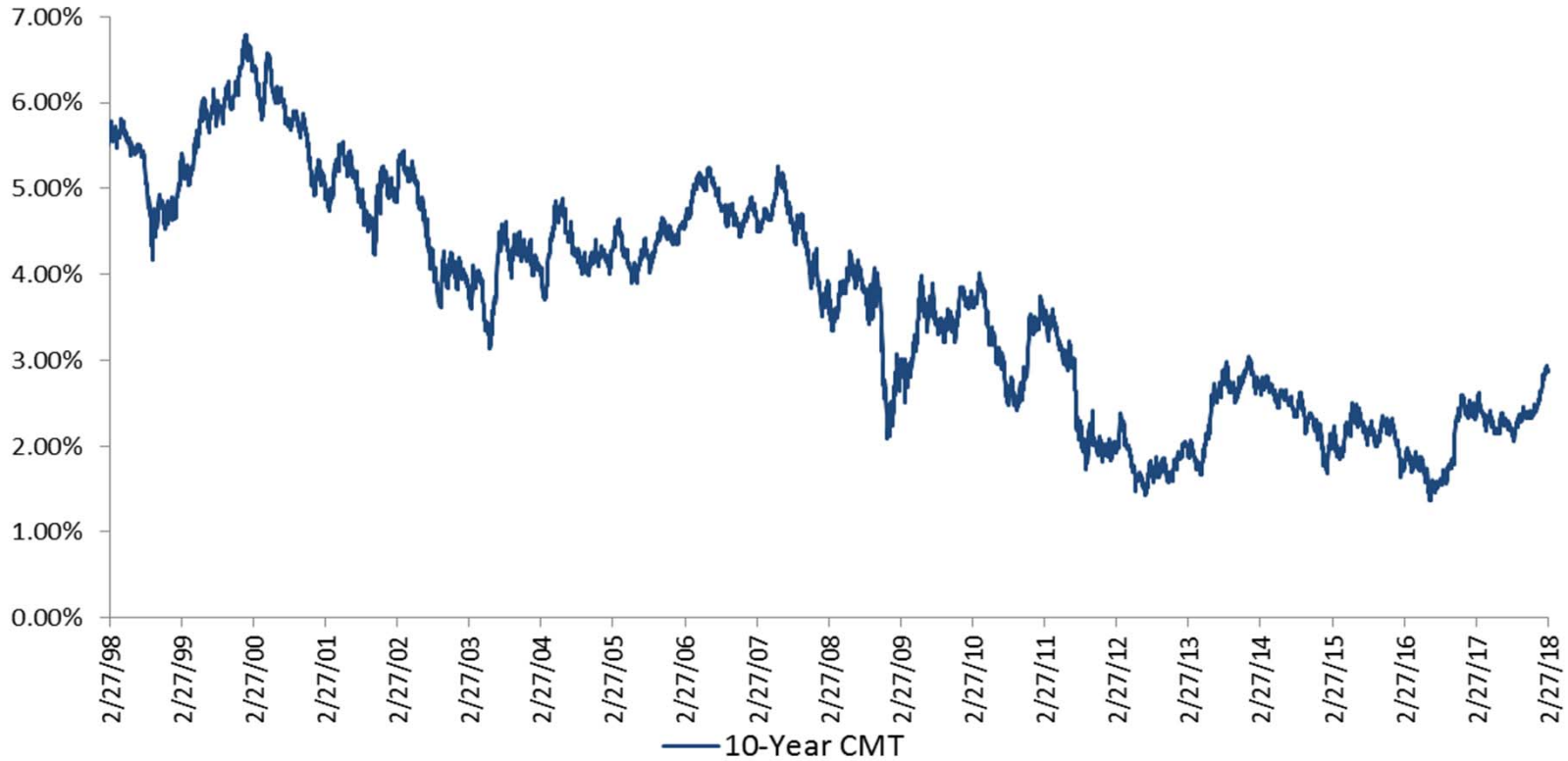
- **Interest rates are starting to go up**
- **Corporate tax rates reduced 35% to 21%**
- **Value of tax-exemption is going down**
- **9% and 4% percent LIHTC retained (Yippy!) but pricing is going down**
- **Deals will be getting squeezed on both sides**

Historical 10-Year CMT (Past 10 Years)



Source: Bloomberg.
Reflects market conditions as of February 27, 2018

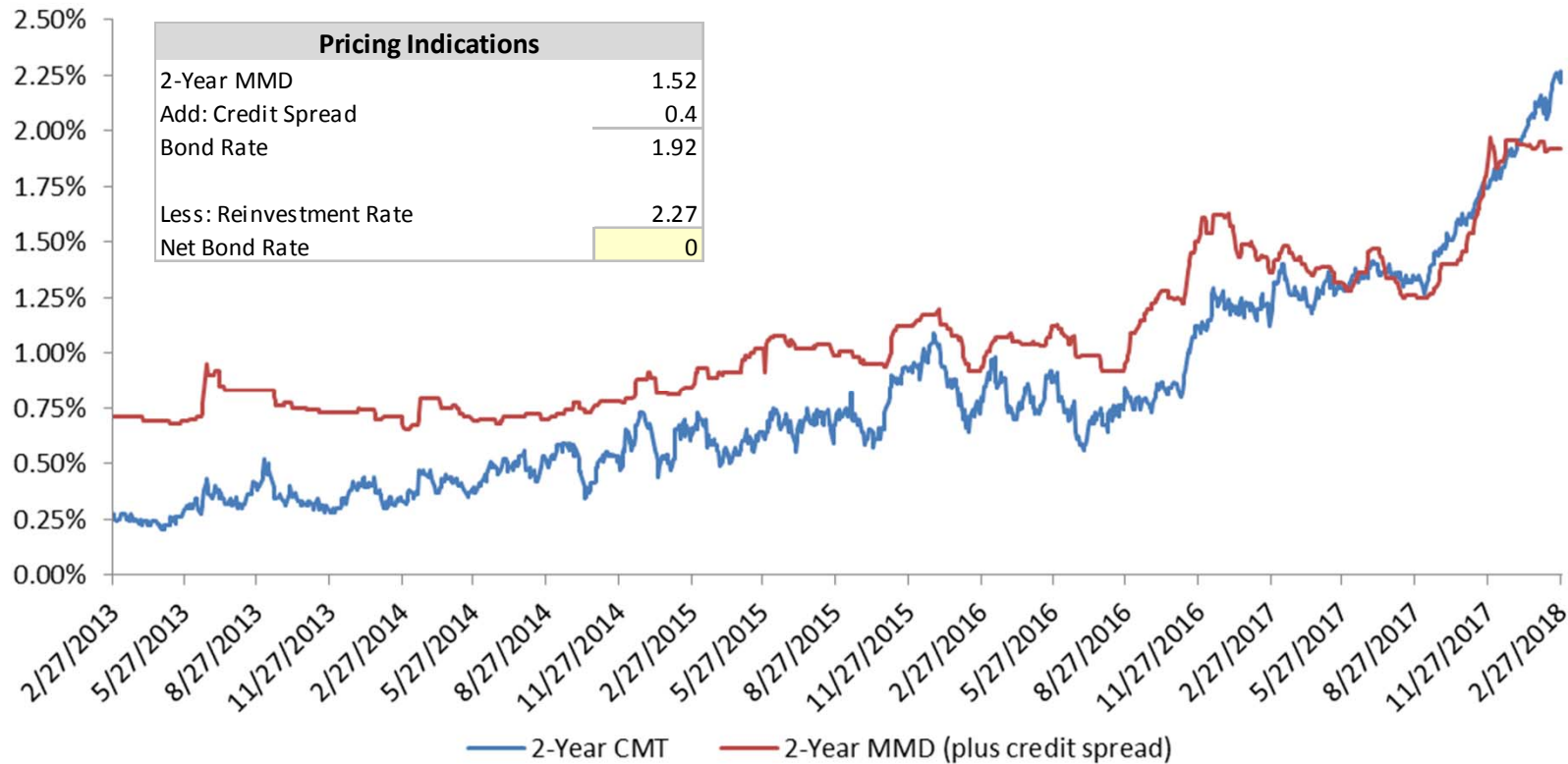
Historical 10-Year CMT (Past 20 Years)



Source: Bloomberg.
Reflects market conditions as of February 27, 2018

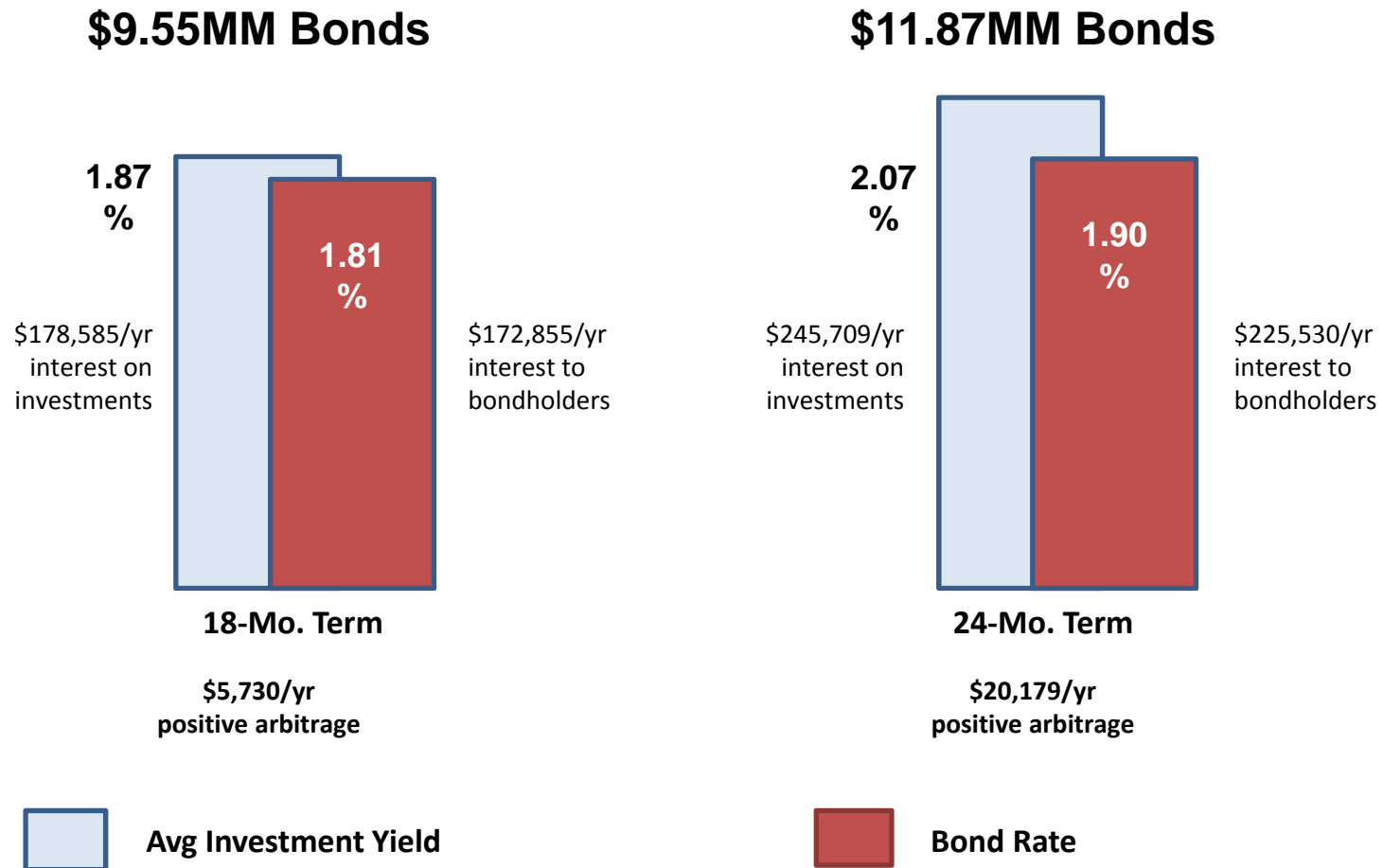
Despite the recent increase in short-term, tax-exempt rates, the negative arbitrage deposit can still be significantly reduced.

Historical Performance for 2-Year MMD (plus credit spread) and 2-Year UST



Source: Bloomberg. Thomson Reuters
 Reflects market conditions as of February 27, 2018
 Thomson Reuters Municipal Market Data (MMD) AAA curve is a proprietary yield curve that provides the offer-side of AAA rated state general obligation bonds

Bond Yields and Investment Rates on Recent Cash-Backed Bond Transactions with Treasury Investments



Costs of the Deal

Issuer Fees*:	0.10% - 3.00%
Bond Counsel*:	\$35,000 - \$100,000
Underwriter's Fee:	0.50% - 1.00%
Underwriter's Counsel:	\$30,000 - \$50,000
Miscellaneous:	\$10,000 - \$20,000
Negative Arbitrage*:	ZERO

Timing of the Bond Deal

- **Bond Application/Volume Cap/Initial Approval**
 - As soon as possible
- **Document Preparations and Review**
 - Around Submission of FHA Loan App
- **Bond Pricing**
 - ~2 weeks before Closing
- **Pre-close/Close**
 - Simultaneous with FHA Loan closing

Tax-Exempt Seller “Take Back” Note & Bonds

- **Many 4% preservation deals include seller financing in the form of a subordinate “take-back” note (common in RAD transactions).**
- **Due to the LIHTC 50% test, tax-exempt bonds in excess of the permanent financing are often required in these deals.**

Tax-Exempt Seller “Take Back” Note & Bonds (cont’d)

- **Option 1**: Bond proceeds can be “allocated” for the full purchase price of the Project and the seller can “allocate” the note as new funds to the deal – which can be used to collateralize that portion of bonds.
- Makes it much easier to meet the 50% test (equity or other soft funds are no longer needed for collateral).
- Often results in savings from additional investment opportunities and eliminating the need for bridging of other collateral funds.

Tax-Exempt Seller “Take Back” Note & Bonds (cont’d)

- **Option 2**: Structure the subordinate debt to tax-exempt through the project’s “placed-in-service” and then convert it to taxable debt thereafter.
- This would apply towards meeting the 50% test – even though no cash is actually moving.
- Results in significant interest saving.
- Tax-exempt private activity volume cap and any upfront/ongoing issuer fees would still be applicable.

FHA Refinancing to Resyndication (R2R) Program for Affordable Projects

GOAL: Lock in today's rates for future tax credit deals.

NEW FHA Refinancing to Resyndication (R2R) Program for Affordable Projects

- **NEW LOAN:** Current owner (or new purchaser) uses a taxable FHA 223(f) loan to refinance existing debt or purchase project. Keep rehab to a minimum

Highlights of 223(f) loan

- Exempt from LIHTC 10-year rule (Section 42(d)(6))
- 35+ year full amortization and term
- 80-90% LTV / 1.11 DSCR
- ~**3.75%** all-in rate including 25bps MIP for affordable deals
- Exemption from Davis-Bacon wages; Non-recourse

FHA Refinancing to Resyndication (R2R)

WHEN READY TO INTEGRATE TAX CREDITS (Upon Year 15 or otherwise): Owner would simultaneously take 3 steps

FHA Refinancing to Resyndication (R2R)

Step 1: Sell project to new tax credit borrower at full appraised value - with FHA debt in place pursuant to HUD's **TPA** (transfer of physical asset) process.

Highlights of TPA

- Take 90-120 days
- Remaining term of FHA loan would be 30+ years
- No prepayment fees or substantial transfer fees are applicable

FHA Refinancing to Resyndication (R2R)

Step 2: Close on a new supplemental **FHA 241(a)** loan

Highlights of 241(a)

- Second position fha loan sized to the lower of (a) 90% of rehabilitation and related construction costs or (b) 1.11 DSCR for total FHA debt.
- Is a construction loan program (clc/plc) and not limited to 223(f) pilot rehab limits.
- Loan term/amortization can be up to 40 years although default is for it to match the remaining term on the senior FHA loan.
- Possible exemption of Davis-Bacon wage requirements (depends on senior FHA loan in place).

FHA Refinancing to Resyndication (R2R)

Step 3: Use tax exempt bonds to qualify for 4% tax credits

Highlights of Bonds/4% Credits

- Need to pass 50% test to qualify for 4% low income housing tax credits
- 95% Bonds need to be spent on “good” costs of project
- Flexibility structured into original 223(f) loan to account for sizing

Refinancing to Resyndication (R2R) with FHA

- **Results:**
 - Locks in today's low rates for ~70% or more of the total debt
 - Avoids prepayment fees/costs on fha loan (~5-9% of loan balance)
- **Compare:**

Loan	Amount	Rate	Annual Pmt	Tax Credit Year
223(f)	\$7,000,000	3.25%	\$335,100	10
241(a)	\$3,000,000	5.25%	\$187,464	15
Total:	\$10,000,000	3.825%	\$522,564	

vs.

Loan	Amount	Rate	Annual Pmt	Tax Credit Year
223(f)	\$10,000,000	5.25%	\$624,888	15

→ Over \$100,000 in annual debt service savings and eliminates ~\$500,000 in potential prepayment fees.

Refinancing to Resyndication (R2R) with FHA

Many Variables to account for:

- Purchase price (subject to appraisal)
- Scope of rehab and related costs
- Tax credit equity pricing
- Aggregate basis calculation (for bond sizing)
- Mortgage rate/term on 241 loan



TIBER HUDSON

Kent Neumann, Esq.
Tiber Hudson LLC
Direct: (202) 973-0107
Cell: (703) 568-0190
kent@tiberhudson.com