

NOTE 16 • Commitments and Contingencies

PW Funding Inc.

Through PWF, we originate and service multi-family mortgage loans for Fannie Mae, Freddie Mac and FHA. PWF and its subsidiaries' mortgage lending business is subject to various governmental and quasi-governmental regulation. PWF and/or its subsidiaries, collectively, are licensed or approved to service and/or originate and sell loans under Fannie Mae, Freddie Mac, Ginnie Mae and FHA programs. FHA and Ginnie Mae are agencies of the Federal government and Fannie Mae and Freddie Mac are federally-chartered investor-owned corporations. These agencies require PWF and its subsidiaries to meet minimum net worth and capital requirements and to comply with other requirements. Mortgage loans made under these programs are also required to meet the requirements of these programs. In addition, under Fannie Mae's DUS program, PWF has the authority to originate loans without a prior review by Fannie Mae and is required to share in the losses on loans originated under this program.

The DUS program is Fannie Mae's principal loan program. Under the Fannie Mae DUS Product Line, PWF originates, underwrites and services mortgage loans on multi-family residential properties and sells the project loans directly to Fannie Mae. PWF assumes responsibility for a portion of any loss that may result from borrower defaults, based on the Fannie Mae loss sharing formulas, Levels I, II or III. At December 31, 2003, all of PWF's loans consisted of Level I loans. For such loans, PWF is responsible for the first 5% of the unpaid principal balance and a portion of any additional losses to a maximum of 20% of the original principal balance. Level II and Level III loans carry a higher loss sharing percentage. Fannie Mae bears any remaining loss.

Under the terms of the Master Loss Sharing Agreement between Fannie Mae and PWF, PWF is responsible for funding 100% of mortgagor delinquency (principal and interest) and servicing (taxes, insurance and foreclosure costs) advances until the amounts advanced exceed 5% of the unpaid principal balance at the date of default. Thereafter, for Level I loans, we may request interim loss sharing adjustments which allow us to fund 25% of such advances until final settlement under the Master Loss Sharing Agreement. No interim loss sharing adjustments are available for Level II and Level III loans.

We maintain an allowance for loan losses for loans originated under the Fannie Mae DUS product line at a level that, in management's judgment, is adequate to provide for estimated losses. At December 31, 2003, that reserve was approximately \$6.7 million, which we believe represents its maximum liability at this time. Unlike loans originated for Fannie Mae, PWF does not share the risk of loss for loans it originates for Freddie Mac or FHA.

In connection with the PWF warehouse line, both CharterMac and CM Corp. have entered into guarantees for the benefit of Fleet National Bank ("Fleet"), guaranteeing the total

advances drawn under the line, up to the maximum of \$100 million, together with interest, fees, costs, and charges related to the PWF warehouse line.

PWF maintains, as of December 31, 2003, treasury notes of approximately \$4.7 million and a money market account of approximately \$1.3 million, which is included in cash and cash equivalents-restricted in the consolidated balance sheet, to satisfy the Fannie Mae collateral requirements of \$6.0 million.

Due to the nature of PWF's mortgage banking activities, PWF is subject to supervision by certain regulatory agencies. Among other things, these agencies require PWF to meet certain minimum net worth requirements, as defined. PWF met these requirements for all agencies, as applicable, as of December 31, 2003.

At December 31, 2003, PWF had commitments of approximately \$49.8 million to five borrowers.

Credit Enhancement Transaction

In December 2001, CM Corp. completed a credit enhancement transaction with Merrill Lynch Capital Services, Inc. ("MLCS"), as described previously. Pursuant to the terms of the transaction, CM Corp. assumes MLCS's \$46.9 million first loss position on a \$351.9 million pool of tax-exempt weekly variable rate multi-family mortgage loans. The Related Companies, L.P. has provided CM Corp. with an indemnity covering 50% of any losses that are incurred by CM Corp. as part of this transaction. As the loans mature or prepay, the first loss exposure and the fees paid to CM Corp. will both be reduced. The latest maturity date on any loan in the portfolio occurs in 2009. The remainder of the real estate exposure after the \$46.9 million first loss position has been assumed by Fannie Mae and Freddie Mac. In connection with the transaction, CharterMac has guaranteed the obligations of CM Corp., and as security therefore, have posted collateral, initially in an amount equal to 50% of the first loss amount, which may be reduced to 40% if certain post closing conditions are met. Our maximum exposure under the terms of this transaction is approximately \$23.5 million. During 2003, two of the tax-exempt weekly variable rate multi-family mortgage loans were repaid in the amount of \$8.9 million. These repayments reduced the first loss position to \$38 million and the pool of multi-family mortgage loans to \$288.6 million. This reduced our maximum exposure under the terms of the transaction to approximately \$19 million.

CM Corp. performed due diligence on each property in the pool, including an examination of loan-to-value and debt service coverage both on a current and "stressed" basis. CM Corp. analyzed the portfolio on a "stressed" basis by increasing capitalization rates and assuming an increase in the low floater bond rate. As of December 31, 2003, the credit enhanced pool of properties are performing according to their contractual obligations and we do not anticipate any losses to be incurred on its guaranty.