

Lender Letter (LL-2023-02)

Mar. 08, 2023

To: All Fannie Mae Single-Family Sellers Private Transfer Fee Covenants: Exception for Certain Shared Equity Transactions

With this Lender Letter, we are revising our requirements for the purchase of shared equity loans in relation to the Private Transfer Fee Covenant Regulation (12 CFR Part 1228).

With FHFA's concurrence, we are updating our policy to permit the acquisition of shared equity loans satisfying the conditions set out below secured by properties that are subject to private transfer fee covenants.

Effective Date: New policy for shared equity loans subject to private transfer fee covenants is effective for all such loans with note dates on or after July 1, 2023.

Shared equity loans

In connection with our Duty to Serve Plan, we are committed to expanding support for shared equity programs, specifically community land trusts and other properties with income and resale price restrictions (also known as affordability-related deed restrictions) sponsored by non-profit and governmental entities. (Such loans that are eligible for purchase under the *Selling Guide* are described below as "shared equity loans".) Through those efforts, we have learned that shared equity providers sometimes charge a fee for the work they do when homeowners in such programs transfer their properties to new, program-eligible buyers.

Shared equity loans with note dates on or after the effective date above that are secured by properties subject to private transfer fee covenants are only eligible for sale to Fannie Mae upon the following conditions, which include certain additional Duty to Serve-related conditions drawn from 12 CFR §1282.34(d)(4):

- The entity entitled to enforce the private transfer fee covenant must be an eligible Community Seconds® provider under *Selling Guide* [B5-5.1-02](#), Community Seconds Loan Eligibility, and
- The instrument containing the private transfer fee covenant must:
 - include restrictions on the terms of transfer of the subject property limiting both the maximum income of the transferee(s) and the maximum permissible sales price that will apply for at least 30 years after recordation ("Income and Resale Price Restrictions");
 - provide that the entity entitled to enforce the private transfer fee covenant has:
 - a preemptive option to purchase the subject property from the homeowner at resale; and
 - the power to review and approve all refinance loans and home equity lines of credit to be secured by the property.

Shared equity loans meeting the above conditions are eligible for purchase, regardless of whether the income of the individual borrower(s), or the maximum income level specified under the Income and Resale Price Restrictions, exceeds 100% of area median income.



Community Land Trusts

To prevent delay or interruption in the sale of community land trust loans, we will continue to purchase loans secured by a leasehold estate on property owned by a community land trust made in conformity with *Selling Guide* [B5-5.1-04](#), Community Land Trusts (including loans subject to private transfer fee covenants) with note dates prior to July 1, 2023. All community land trust loans with note dates after the effective date of this Lender Letter must comply with the new policy.

Model Forms

Grounded Solutions Network publishes the 2011 National Community Land Trust Network (NCLTN) Model Ground Lease, the ICE Model Ground Lease, and the 2021 Model Declaration of Affordability Covenants with Refinance and Resale Restriction and Purchase Option (“Model Forms”). These Model Forms contain provisions that, if included in the instrument for the property, will satisfy the above requirements. Lenders selling loans in accordance with the terms of this Lender Letter must ensure that these provisions are included in the applicable instrument.

Shared equity loans secured by properties without private transfer fee covenants are not subject to this Lender Letter.

Loans with private transfer fee covenants that do not meet the conditions of this Lender Letter remain subject to the prohibition on private transfer fee covenants contained in the *Selling Guide*.

The *Selling Guide* will be updated at a future date to reflect this change in policy.

Lenders may also contact their Fannie Mae Account Team if they have questions about this Lender Letter.
Have guide questions? Get answers to all your policy questions, straight from the source. [Ask Poli](#).