

MPF Announcement:

2023-42

Date:

June 13, 2023

Alert:

Clarification

New Policy

Policy Update

Reminder

Training Information

Audience:

Compliance/Legal

Program Management

Origination

Quality Control

Servicing

Underwriting

Product:

MPF Government MBS

MPF Traditional

MPF Xtra[®]**Effective Date:**

Immediately (unless otherwise noted)

Reference

Please note you can access the [MPF Guides](#) and [MPF Announcements](#) on our [MPF Website](#).

Visit the [MPF Website](#) to review and register for upcoming complimentary [MPF Webinars](#).

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MPF Xtra Selling Updates

Fannie Mae published [SEL-2023-04](#), which covers the below referenced topics that are applicable to mortgage loans sold under the MPF Xtra product:

- Updated requirements for mortgage loans with shared equity and shared appreciation as previously announced in LL-2023-02. **Note:** The updates in the announcement regarding shared equity mortgage loans do not apply to MPF Xtra, the MPF Program does not accept shared equity transactions at this time. The MPF Xtra Selling Guide has been updated to reflect this, see Section 2.3.3 Eligible Transactions and 2.3.4 Ineligible Transactions, Products, or Mortgage Loan Attributes.

Effective: The policy updates are effective for mortgage loans with note dates on or after September 1, 2023. Per Lender Letter LL-2023-02, the effective date for new policies relating to the Duty to Serve regulation permitting private transfer fee covenants for certain shared equity loans is July 1, 2023.

- Clarified eligibility requirements for subordinate liens.
- Updated tax documentation requirements to allow alternative documentation for IRS Form 4868 as evidence the Borrower has filed an extension for the prior year's tax returns.

To gain a full understanding of these topics, PFIs should review the entire Fannie Mae Announcement and any applicable Fannie Mae Selling Guide chapters, forms, or exhibits noted in the announcements.

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Selling Guide Announcement (SEL-2023-04)

May 3, 2023

The *Selling Guide* has been updated to include changes to the following:

- [Shared equity and shared appreciation](#): providing updated requirements for loans with shared equity or shared appreciation provisions
- [Subordinate financing](#): clarifying eligibility requirements for subordinate liens
- [Alternatives for tax filing documentation](#): allowing alternative documentation for IRS Form 4868 as evidence the borrower has filed an extension for the prior year's tax returns

In addition, we updated the [Guide to Delivering eMortgages to Fannie Mae](#) to eliminate the requirement that lenders must register the lien on the Mortgage Electronic Registration System when delivering an eMortgage to us. There is no change to the requirement that sellers must use the MERS® eRegistry when delivering eMortgages to us. This update has no impact to the *Selling Guide*.

View the list of [impacted topics](#).

Shared equity and shared appreciation

We reorganized and added content in Chapter B5-5 to provide greater clarity for Community Seconds® loans, Community Seconds loans with shared appreciation, loans with resale restrictions (non-shared equity), and loans with shared equity provisions. These changes will allow more eligible borrowers to benefit from these affordability-based programs while providing lenders greater resources for identifying loans that meet our eligibility requirements.

Shared equity and shared appreciation programs provide financial assistance for homeownership to those who otherwise may not be able to afford the purchase of a home. However, they differ fundamentally in title requirements, documentation, and the way the program provider receives repayment for assistance rendered. Because of their differences, we address shared equity and shared appreciation requirements separately in our Guide.

Shared equity updates

In March of this year, we announced our support for a new model form of deed restriction published by Grounded Solutions Network for use with shared equity transactions (see [LL-2023-02](#)). The 2021 Model Declaration of Affordability Covenants with Refinance and Resale Restriction and Purchase Option (“model deed restriction form”) is optional but provides shared equity programs access to a standardized legal document for properties with income and resale price restrictions that satisfy our eligibility requirements.

Its use will create consistency in the marketplace and may relieve lenders of some of the costly legal reviews currently associated with reviewing shared equity program documents. All shared equity loans with income and resale price restrictions that use the model deed restriction form must be delivered with Special Feature Code (SFC) 177 in addition to SFC 630 (Resale Restrictions Terminating at Foreclosure).

NOTE: *There are specifically marked provisions within the model deed restriction form that cannot be modified for the loan to meet our eligibility requirements.*



In addition to promoting use of the model deed restriction form, we are introducing a new requirement for a *Shared Equity Amendment (Form 2200)* for all properties with income and resale price restrictions. This form is required without regard to whether the model deed restriction form is used. Form 2200 is roughly comparable to the *Community Land Trust Ground Lease Rider (Form 2100)*. It will establish uniform processes for all lenders underwriting and servicers servicing loans subject to shared equity provisions. Form 2200 must be executed by the borrower(s), the lender, and the shared equity provider (and any other parties signing the original instrument imposing the income and resale price restrictions) before being recorded.

To further support acquisition of shared equity loans, we also made the following changes:

- updated policies consistent with current industry standards, terms, and program offerings,
- added additional details related to community land trusts and income and resale price restrictions,
- updated pre-delivery requirements for income and resale price restrictions that align with current community land trust requirements,
- enhanced consumer protection policies to require shared equity providers to offer counseling opportunities or similar engagements for borrowers to ensure they understand the terms of the program in which they are being enrolled prior to loan closing, and
- revised eligible program provider requirements to align with those for Community Seconds loans. With the alignment of these policies, we removed the additional requirement for providers to have established procedures for screening and processing applicants.

Shared appreciation updates

Similar to the shared equity updates indicated above, we are also making several changes to shared appreciation policies that align our requirements with current industry best practices.

We clarified details around why, when, and for what amount repayment of the shared appreciation loan is determined. Events that may trigger repayment of the appreciation include:

- a date specified in the program's legal documentation keyed to the purchase mortgage maturity date,
- repayment in full of the first mortgage (except when the shared appreciation loan is being resubordinated in connection with a refinance),
- acceleration of the first mortgage in accordance with its terms, or
- an unauthorized transfer of the property, or default event related to failure to maintain the collateral.

The amount of appreciation must be determined by

- the actual sales price of the property when it is sold on the open market (including a foreclosure sale sold on the open market), or
- an appraisal or third-party commercial automated valuation model.

Shared appreciation providers must be eligible Community Seconds providers. In addition, shared appreciation providers must advance their own funds to the borrower (or those of other parties for whom it is administering the program, so long as each such party is an eligible Community Seconds provider) and be responsible for the administration and oversight of the shared appreciation program.

Finally, and similar to the shared equity provisions above, we are promoting consumer protection for participation in shared appreciation programs by requiring that the borrower be allowed to repay the obligation in full at any time with no further obligation to the provider. Providers also cannot impose expenses or fees to the shared appreciation loan with the exception of borrower default or other borrower-initiated transactions (for example, resubordination).

All loans with a subordinate shared appreciation loan must be delivered with SFC 176.

Effective: This policy update is effective for loans with note dates on or after Sept. 1, 2023. The *May Servicing Guide* will include updated servicing requirements for loans subject to resale restrictions and shared equity transactions. Per Lender Letter LL-2023-



02, the effective date for new policies relating to the Duty to Serve regulation permitting private transfer fee covenants for certain shared equity loans is July 1, 2023.

Subordinate financing

To accompany the larger changes made to Chapter B5-5: Community Seconds, Loans with Resale Restrictions, and Shared Equity Transactions, we provide additional details for subordinate financing requirements. Specifically, subordinate financing must be evidenced by a promissory note and reflected in a recorded security instrument that is clearly subordinate to Fannie Mae's first mortgage. We also clarify that unless it qualifies as a Community Seconds loan, an agreement under which a borrower is obligated to pay a third-party (other than a co-owner of the subject property) a share of any appreciation in the value of the property is not permitted.

Effective: Lenders may take advantage of these policy clarifications immediately.

Alternatives for tax filing documentation

To align our policies with recent changes made by the IRS, we will allow alternative documentation for IRS Form 4868 as evidence the borrower has filed an extension for the prior year's tax returns. We are updating our policy to permit proof of e-filing of IRS Form 4868 or payment confirmation (including the confirmation number) of all or part of the estimated income taxes due to support that the borrower has filed an extension.

Additionally, in cases where a lender is required to obtain a response from the IRS based on the filing of IRS Form 4506-C, lenders may, at their discretion, rely on borrower-provided evidence directly from the IRS website that no transcripts are available for the applicable tax year. These changes will prevent delays incurred as a result of IRS response times and accommodate options introduced by the IRS.

Effective: Lenders may take advantage of these policy changes immediately.

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



Impacted Topics

Section of the Announcement	Updated <i>Selling Guide</i> Topics (Dated May 03, 2023)
Shared equity and shared appreciation	<ul style="list-style-type: none">▪ B2-1.5.02, Loan Eligibility▪ Chapter B5-5, Community Seconds, Loans with Resale Restrictions, and Shared Equity Transactions▪ Section B5-5.1, Community Seconds▪ B5-5.1-01, Community Seconds Loans▪ B5-5.1-02, Community Seconds Loan Eligibility▪ B5-5.1-03, Community Seconds: Shared Appreciation Transactions▪ Section B5-5.2, Loans with Resale Restrictions▪ B5-5.2-01, Loans with Resale Restrictions: General Information▪ B5-5.2-02, Loans with Resale Restrictions: Eligibility, Collateral and Delivery Requirements▪ Section B5-5.3, Shared Equity Transactions▪ B5-5.3-01, Shared Equity Overview▪ B5-5.3-02, Shared Equity Transactions: General Requirements▪ B5-5.3-03, Shared Equity Transactions: Eligibility, Underwriting and Collateral Requirements▪ B5-5.3-04, Massachusetts Resale Restriction Loan Eligibility Requirements▪ B7-2-04, Special Title Insurance Coverage Considerations▪ E-3-09, Acronyms and Glossary of Defined Terms: I▪ E-3-19, Acronyms and Glossary of Defined Terms: S
Subordinate Financing	<ul style="list-style-type: none">▪ B2-1.2-04, Subordinate Financing
Alternatives for tax filing documentation	<ul style="list-style-type: none">▪ B1-1-03, Allowable Age of Credit Documents and Federal Income Tax Returns