

Alert

Update

Reminder

Clarification

Training
Information

Preview

Agency Revisions for Properties with Resale Restrictions, Subordinate Financing, including Community Seconds, and Tax Filing Documentation

Truist Bank (Truist) revises Agency non-AUS and Desktop Underwriter® (DU®) requirements as a result of recently announced Fannie Mae updates. With these updates we:

- update requirements for shared equity and shared appreciation transactions

Notes:

- A shared equity transaction is defined as a transaction that has resale restrictions that limit income eligibility **and** impose a maximum resale price.
- A shared appreciation transaction is a type of Community Seconds® offering that creates affordability for eligible borrowers by providing down payment and/or closing cost assistance in exchange for repayment of a loan and a share in any future appreciation of the property.
- clarify Community Seconds provider requirements
- further clarify eligibility requirements for subordinate liens
- allow alternative documentation for Internal Revenue Service (IRS) Form 4868 as evidence the borrower has filed an extension for the prior year's tax returns

We also refresh the presentation of non-AUS and DU requirements in the following subtopics (*intent of requirements remain the same*):

- Secondary Financing
- Community Seconds
- Minimum Borrower Contribution Requirements
- Properties with Resale Restrictions

Effective Dates

- The shared equity and shared appreciation specific updates are effective for loans with note dates on or after September 1, 2023.
- All other updates and clarifications are effective immediately for existing and new loan applications on or after August 18, 2023.

Background Information

Fannie Mae SEL-2023-04 announced updates related to shared equity, shared appreciation, subordinate financing, and alternatives for tax filing documentation. In response to this publication, we reviewed impacted standard documents and identified the opportunity to more closely align with Fannie Mae's requirements. We also continue to identify opportunities to improve the presentation of our published Agency requirements.

Bulletin Details

Properties with Resale Restrictions

For non-AUS and DU loans:

- requirements are now presented in the following two subsections:
 - **Loans with Resale Restrictions: Non-Shared Equity Transactions** (see “*Allowable Restrictions*” under this subsection for a listing of the allowable resale restrictions for non-shared equity transactions)
 - **Loans with Resale Restrictions: Shared Equity Transactions**
- we revised **shared equity** transactions requirements as follows:
 - introduced a new requirement for a *Shared Equity Amendment* ([Form 2200](#))
 - limited shared equity transaction eligibility to properties with income and resale price restrictions that **survive** foreclosure

Note: Due to Truist technology constraints to support Fannie Mae’s required “Affordable LTV” calculation, non-AUS and DU shared equity transactions with income and resale price restrictions that **terminate** at foreclosure will no longer be eligible for purchase (*a new overlay*). This applies to CorrAdvantage loans as well.

- incorporated additional details related to income and resale price restrictions, including, but not limited to use of the Grounded Solutions Network *2021 Model Declaration of Affordability Covenants with Refinance and Resale Restriction and Purchase Option* (“model deed restriction form”)

Note: 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. Use of the model deed restriction form is optional.

- updated pre-delivery requirements for loans with income and resale price restrictions
- revised requirements to state that shared equity providers must 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
- revised eligible program provider requirements to align with those for Community Seconds loans; with this alignment, we removed the additional requirement for providers to have established procedures for screening and processing applicants

Notes:

- Non-AUS and DU requirements for loans in Massachusetts that are subject to the *Affordable Housing Restriction* document are now located in the “Loans with Resale Restrictions: Shared Equity Transactions” subsection.
- Community land trust loans (which are considered shared equity transactions) remain ineligible for purchase (*an existing overlay for non-AUS, DU, and LPA loans*).

Bulletin Details, continued

Properties with Resale Restrictions, continued

Notes, continued:

- Truist is also maintaining our *existing overlay* announced in Product Release [COR23-047](#) that does not permit purchases of shared equity loans secured by properties subject to private transfer fee covenants that meet the eligibility conditions outlined in Fannie Mae Lender Letter LL-2023-02 and Freddie Mac Bulletin 2023-11.

Community Seconds

For non-AUS and DU loans:

- requirements are now presented in the following three subsections:
 - **Community Seconds Loans**
 - **Community Seconds Loan Eligibility**
 - **Community Seconds Loans: Shared Appreciation Transactions**
- we clarified requirements related to a Community Seconds provider to state that the provider must not be the property seller or other interested party in the transaction, except when they are the provider of a shared equity or sweat equity program
- Community Seconds used as a means to “subsidize” the sales price of a property remain ineligible (*an existing overlay*)
- we revised **shared appreciation** transactions requirements as follows:
 - clarified requirements to state that the provider of a shared appreciation loan must:
 - be an eligible Community Seconds provider
 - be responsible for the administration and oversight of the program
 - advance its own funds (or those of other parties for whom it is administering the program, so long as each such party is an eligible Community Seconds provider) to the borrower
 - updated requirements to state that expenses or fees must not be imposed on the borrower after loan origination, except in cases of default or in connection with borrower-initiated transactions (for example, resubordination)
 - clarified requirements related to the repayment of the Community Seconds loan, payout of appreciation, and the basis for determining the amount of appreciation
 - updated requirements to require SFC 176 to identify a first mortgage with a subordinate Community Seconds loan with shared appreciation

Note: Under LPA requirements, Truist is also requiring SFC 176 to identify a first mortgage with a subordinate Affordable Seconds[®] loan with shared appreciation. This requirement is being implemented for best execution purposes.

Bulletin Details, continued

Subordinate Financing

For non-AUS and DU loans, we aligned with Fannie Mae and clarified eligibility requirements for subordinate liens to reflect the following:

- 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.
- 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.

Alternatives for Tax Filing Documentation

For non-AUS and DU loans, we aligned with Fannie Mae and now allow alternative documentation for IRS Form 4868 as evidence the borrower has filed an extension for the prior year's tax returns. We revised "Allowable Age of Federal Income Tax Returns" requirements to permit proof of the 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.

Standards Improvement Updates

All other updates made to the following subtopics were in support of our standards improvement initiative. We refreshed non-AUS and DU requirements to more closely align with Fannie Mae's presentation of guidance and to promote consistency in our published Agency requirements (*intent of requirements remained the same*):

- Secondary Financing
- Community Seconds
- Minimum Borrower Contribution Requirements
- Properties with Resale Restrictions

Before and After Matrix

[Click here](#) to see the before and after matrix that provides a detailed overview of all standard revisions.

Revised Materials

Click [Agency Loan Standard](#), [Fannie Mae HomeReady®](#) and [Freddie Mac Home Possible® Mortgages Standard](#), [CorrAdvantage Standard](#), and [Agency Overlay Matrix](#) to review the revised product materials.

Former Standards

See the before and after matrix provided in the Bulletin Details section of this bulletin to access the former standards.

Other Resources

Support Group	Description and Contact Information:
Correspondent Relations Coordinator	Specific questions on applying this procedure to specific loan files. Contact Correspondent Relations Coordinators at 800.382.2111, Option 1.
Product Support	Provides phone and email support on products, policies, and procedures as well as new product rollout and existing product enhancement. Contact Product Support at 800.382.2111, option 3.

This information is for use by mortgage professionals only and should not be distributed to or used by consumers or other third parties. This is not for solicitation of sales. Information is accurate as of date of posting and is subject to change without current product details and lending procedure. Truist Bank does not guarantee or assume liability for any third-party products or services. Truist Bank is an Equal Housing Lender. ©2023 Truist Financial Corporation. All rights reserved.