



# Lender Roadmap for Legal Questions for Multifamily MBS Loans After Securitization (Assumptions, Transfers and Asset Management)\*

## Nonrecourse Loans

Modification or Waiver Request	Is this allowed for an existing MBS loan?	Does this require Fannie Mae review? <sup>1</sup>
1. Transfer of interests in ownership of borrower, guarantor, or key principal	Yes, in accordance with the terms of the applicable loan documents	Possibly, see terms of applicable loan documents
2. Conveyance of real property collateral and assumption of loan by new borrower	Yes, in accordance with the terms of the applicable loan documents	Possibly, see terms of applicable loan documents
3. Addition, deletion or substitution of non-recourse carve-out guarantor or key principal	Yes, in accordance with the terms of the applicable loan documents	Possibly, see terms of applicable loan documents
4. Add new non-recourse carve-out, full recourse trigger	No	N/A
5. Add new non-recourse carve-out, damages/losses only	Potentially yes, for new damages carve-outs, but may not be permitted if there are federal tax concerns <sup>2</sup>	Yes
6. Add or expand limited guaranty for completion of repairs or other identified property issues	Potentially yes	Only if FNMA form of completion guaranty is not required
7. Add, delete or modify permitted and non-permitted transfers	Generally yes, but may need review	Yes, unless delegated under the Guide or current loan document modification guidance

\* This Roadmap is intended to supplement, and not substitute for, compliance with applicable loan documents and the Multifamily Selling and Servicing Guide. This Roadmap addresses MBS legal issues only and does not change the rules for delegating lenders and servicers the authority to make decisions, which are contained in the Guide and lender contracts.

<sup>1</sup> If the MBS was issued with additional disclosure that may relate to the current request, review the existing additional disclosure and include the results of that review in any analysis. If Fannie Mae review is required, relevant additional information must be provided.

<sup>2</sup> Whenever the request raises federal tax concerns, it likely also raises concerns related to compliance with the applicable Fannie Mae trust documents and whenever the request raises concerns related to compliance with the applicable trust documents, it likely also raises federal tax concerns.



## ***Recourse Loans***

<b>Modification or Waiver Request</b>	<b>Is this allowed for an existing MBS loan?</b>	<b>Does this require Fannie Mae review?</b>
1. Transfer of minority, non-controlling interests in ownership of borrower, guarantor or key principal	Yes, in accordance with the terms of the applicable loan documents	Possibly, see terms of applicable loan documents
2. Transfer of real property collateral and assumption of loan by new borrower, or any release of all original borrowers and obligors	No	N/A
3. Addition or deletion of a co-obligor (without release of all original borrowers)	Potentially yes, but needs review	Yes
4. Change the loan from recourse to non-recourse	No, except in rare cases	Yes



## All MBS Loans

Modification or Waiver Request	Is this allowed for an existing MBS loan?	Does this require Fannie Mae review?
1. Partial release of lien in real property collateral (not in connection with a condemnation and <i>not</i> contemplated in existing loan documents)	May raise federal tax and disclosure concerns as well as MBS Trust concerns <sup>3</sup>	Yes
2. Partial release of lien in real property collateral that was contemplated in existing loan documents (not in connection with a condemnation)	Yes, if all conditions to release are satisfied and the partial release was included in at-issuance disclosure	Yes (Asset Management review to confirm that all conditions to release have been satisfied)
3. Addition of collateral, whether real property, cash or letter of credit <sup>3</sup>	May raise federal tax concerns as well as MBS Trust concerns <sup>4</sup>	Yes
4. Improvements to buildings, structures of facilities	Yes	If required by the loan documents or otherwise required by the lender delegations under the Guide
5. Add new event of default	Likely to raise federal tax and securities disclosure concerns	Yes
6. Add new covenant	Likely to raise federal tax and securities disclosure concerns, and possibly MBS Trust concerns	Yes
7. Cross-default and/or cross-collateralize with new Fannie Mae loan	No	N/A
8. Add new due-on-sale clause	No	N/A
9. Easements, Condemnations, Commercial Leases, and Condominium Conversions	Yes	Follow Part V of the Guide on Asset Management and the applicable loan documents
10. Conversion of Seniors Housing unit type ( <i>e.g.</i> , from independent living to assisted living or memory care)	Yes	If required by the loan documents or otherwise required by the lender delegations under the Guide
11. Add operating lease structure to any loan, ( <i>e.g.</i> , Seniors Housing or Student Housing)	Yes, provided existing loan documents contemplate operating lease, including cross-default	Yes
12. Other modifications (not otherwise addressed in this Roadmap) to loan documents upon transfer or assumption or for asset management requests (unless permitted by Part V of the Guide)	Potentially yes, but needs review	Yes

<sup>3</sup> Whenever the request raises federal tax concerns, it likely also raises concerns related to compliance with the applicable Fannie Mae trust documents and whenever the request raises concerns related to compliance with the applicable trust documents, it likely also raises federal tax concerns.

<sup>4</sup> Under the Guide and as a result of product limitations, a new multifamily project can never be added to an existing loan, whether cash or MBS, except in connection with credit facilities and bulk deliveries, subject to the terms of related loan documents.