



Lender Roadmap for Legal Questions for Multifamily MBS Loans Prior to Securitization*

| Loan Terms | Is this allowed in an MBS loan? | Does this require Additional Disclosure? | How does this impact the MBS? | Guidance |
|---|---|--|--|--|
| 1. Future change in borrower or guarantor of standard non-recourse carve-outs on a non-recourse loan | Yes, consistent with form documents and Guide | No | No negative impact | N/A |
| 2. Future change in borrower or guarantor on a full recourse loan (e.g., assumption) | No | N/A | Potential federal tax impact ¹ | Structure as non-recourse to retain borrower's ability to transfer the Mortgaged Property and obligations under the loan |
| 3. Future partial release of real estate collateral (other than in connection with a condemnation) | Potentially yes, but needs review | Likely to require Additional Disclosure when MBS is issued | May impact liquidity Potential federal tax impact | Provide the description/value of release parcel and proposed language for release conditions. Best to provide in mortgage documents to avoid an MBS Trust issue. |
| 4. Introduction of a non-standard event of default (e.g., net worth and liquidity covenants, failure to comply with 1031 exchange provisions) | Yes | Likely to require Additional Disclosure when MBS is issued | May impact liquidity | Provide proposed language for review |
| 5. Related property transfer covenants Form 6248 - Full Cross Phased Properties Form 6249 - One Way Cross Phased Properties Form 4250 - First and Last Right Phased Properties Form 6319 - Full Cross Phased Properties | Potentially yes, but needs review | Yes, if provision is permitted. Investor must be informed of any non-standard conditions likely to trigger early prepayment or default | May impact liquidity | Use published forms as a starting point |

* This Roadmap is intended to supplement, and not substitute for, compliance with the Multifamily Selling and Servicing Guide, including the rules for Additional Disclosure and [Form 4098](#). 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. Modifications to loans that are implemented by using Fannie Mae Multifamily published form loan documents in accordance with the Guide do not raise MBS legal issues. Any items noted as additional disclosure should also be added to the [Form 4097](#). Note Form 4097 is required when trading MBS.



¹ Whenever the proposed loan terms raise potential federal tax concerns, they likely also raise concerns related to compliance with the applicable trust documents.

| Loan Terms | Is this allowed in an MBS loan? | Does this require Additional Disclosure? | How does this impact the MBS? | Guidance |
|--|--|---|---|--|
| 6. Addition of non-standard reserves or escrows (including those released subject to completion of property improvements and performance benchmarks) | Yes | No | No negative impact | Use standard forms in language when possible, otherwise have language reviewed (see separate guidance on operating deficit reserves below) |
| 7. New non-standard non-recourse carve-out: full recourse trigger | No | N/A | Potential federal tax impact | Work with your deal team to come up with alternative mitigant |
| 8. New non-standard non-recourse carve-out: for damages/losses | Potentially yes, for new damages carve-outs, but needs review | Additional Disclosure may be required (e.g., if new event of default) | May impact liquidity Potential federal tax impact | Need to be tied to an event of default (new or existing) |
| 9. Operating deficit reserves or guaranty | Potentially yes, but needs review (e.g., cannot exceed 10% of the UPB) | Additional Disclosure may be required when MBS is issued | Additional recourse may impair ability to assume or transfer debt | Provide terms of reserve and/or guaranty agreement for review |
| 10. Introduction of a non-standard event of default (e.g., net worth and liquidity covenants, failure to comply with 1031 exchange provisions) | Potentially yes, but needs review (e.g., cannot exceed 10% of the UPB) | Additional Disclosure may be required when MBS is issued | Additional recourse may impair ability to assume or transfer debt Potential federal tax impact | Provide proposed language for review |
| 11. Completion guaranty | Yes | No | No negative impact | Refer to Multifamily Form 6018 |