

## **Selling Guide Announcement SEL-2012-05**

June 19, 2012

### **Private Transfer Fee Covenants**

On March 16, 2012, the Federal Housing Finance Agency (FHFA) issued a final rule (codified at 12 C.F.R. Part 1228) and a directive which prohibits Fannie Mae from purchasing or investing in any mortgages on properties encumbered by certain private transfer fee covenants, securities backed by such mortgages, or securities backed by the income stream from such covenants, unless they are excepted transfer fee covenants, as defined in the final rule (the "Regulation").

Effective July 16, 2012, Fannie Mae will not purchase or securitize mortgages on properties encumbered by private transfer fee covenants if those covenants were created on or after February 8, 2011, unless permitted by the Regulation. Accordingly, mortgages on properties encumbered by private transfer fee covenants must be purchased by Fannie Mae as whole loans no later than July 13, 2012, or delivered no later than July 13, 2012 into MBS pools with issue dates of July 1, 2012 or earlier.

In its March 15, 2012 News Release, FHFA stated, "The final rule excludes private transfer fees paid to homeowner associations, condominiums, cooperatives, and certain tax-exempt organizations that use private transfer fee proceeds to benefit the property. Fees that do not directly benefit the property are subject to the rule, and would disqualify mortgages on the property from being sold to Fannie Mae or Freddie Mac, or used as collateral for Federal Home Loan Bank advances."

### **Requirements for Lenders**

The lender must establish policies and/or procedures to ensure that the loans it delivers to Fannie Mae, whether or not the loans were originated by the lender, are not secured by properties encumbered with a private transfer fee that is unacceptable under the Regulation. The policies and/or procedures will be reviewed by Fannie Mae as part of the lender's operational review process.

As with all other federal, state, and local laws, the lender (and any third-party originator it uses) must be aware of, and in full compliance with, the Regulation. See the [Regulation](#) for further detail concerning acceptable and unacceptable private transfer fee covenants, as well as the definitions of "private transfer fee" and "private transfer fee covenant."

NOTE: *The Selling Guide will be updated on June 26, 2012, to reflect the changes in this Announcement.*

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Lenders who have questions about this Announcement should contact their Account Team.

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