

Trust Policy Release

February 13, 2024



To: Underwriting & Operations
Date: February 13, 2024
Release: 2024-2
Re: Inter Vivos Revocable Trust Policy

The purpose of this release is to outline policy for ensuring loans that have an Inter Vivos Revocable Trust as the borrower satisfies lending requirements.

Inter Vivos Revocable Trusts, also referred to as living trusts, are typically used by borrowers as an estate planning tool.

Please refer to program guidelines/matrix for eligible programs.

Trust Documentation:

Provide a complete copy of The Trust Agreement or Trust Certification verifying all the following:

- The trust was validly created and is duly existing under applicable law
- The trust is revocable
- The borrower is the person who created the trust and the beneficiary of the trust
- The trust assets may be used as collateral for the loan
- The trustee:
 - Is duly qualified under applicable law to serve as trustee
 - Is the borrower
 - Is the person who created the trust
 - Is fully authorized under the trust documents and applicable law to pledge or encumber the trust assets

In lieu of the trust documents, a Trust Certification is acceptable for the following states: AL, AZ, CA, FL, ID, IN, IA, KS, MI, MN, MS, NE, NV, NM, NC, ND, OR, SC, SD, TX, UT.

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Title and Title Insurance Requirements

Title to the property must be vested in the name of the trustee(s) on behalf of the trust. The title insurance policy must not list any exceptions arising from the trust ownership of the property and provide full title protection to the appropriate agency.

Note: Title is vested in the name of the trust.

Legal Requirements

A Power of Attorney is not allowed on properties held in trust.

Jet or HMAC, or any employee, is prohibited from providing legal advice to the borrower instructing them to deed the subject property out of their trust into their individual names for purposes of obtaining financing. Instruct borrower to consult with their trust attorney regarding potential exposure for changing the title on the subject property to their individual names.

Signature Requirements on Closing Documents

Each trustee AND each Individual establishing an Inter Vivos Revocable Trust whose income and assets are used to qualify for the mortgage must separately execute the Note and any necessary addendum. Vesting language provided on the preliminary title report provides the verbiage for the closing documents on a refinance, or escrow provided vesting.

Important Note: Under NO circumstances should the vesting used on the closing documents include a Social Security Number, even if the trust includes the Social Security Number.

Each trustee of the Inter Vivos Revocable trust must execute the Security Instrument and any applicable rider. Each individual establishing the trust whose income and assets are used to qualify for the mortgage must sign a statement of acknowledgment on the Security Instrument, any applicable rider, Closing Disclosure, Notice of Right to Cancel on a refinance, and Initial Escrow Account Disclosure, if loan has impounds.

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Examples of signature lines and signatures

All Trust Signature lines MUST be signed with "As Trustee" or "Trustee" at the end of the borrower(s) signature.

[Signature] Trustee

(Seal)
IAN RIGLER, TRUSTEE -Borrower
OF The I & B Rigler Living
Trust dated December 23,
2015 for the benefit of Ian
Rigler and Barbara Rigler

Correct 

Barbara Rigler Trustee

(Seal)
BARBARA RIGLER, -Borrower
TRUSTEE OF The I & B Rigler
Living Trust dated December
23, 2015 for the benefit of
Ian Rigler and Barbara
Rigler

[Signature]

(Seal)
Ian Rigler -Borrower

Barbara Rigler

(Seal)
Barbara Rigler -Borrower

[Signature]

(Seal)
IAN RIGLER, TRUSTEE -Borrower
OF The I & B Rigler Living
Trust dated December 23,
2015 for the benefit of Ian
Rigler and Barbara Rigler

Incorrect



Barbara Rigler

(Seal)
BARBARA RIGLER, -Borrower
TRUSTEE OF The I & B Rigler
Living Trust dated December
23, 2015 for the benefit of
Ian Rigler and Barbara
Rigler

[Signature]

(Seal)
Ian Rigler -Borrower

Barbara Rigler

(Seal)
Barbara Rigler -Borrower

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Note: There can be no signature and/or handwriting below the signature line.

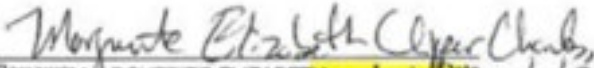
Incorrect




Borrower MICHAEL AARON CHARLES Date 3/28/18


Borrower MARGUERITE ELIZABETH CLIPPER CHARLES Date 3/28/18

 trustee 3/28/18
Borrower MICHAEL AARON CHARLES, TRUSTEE OF THE CHARLES FAMILY 2014 REVOCABLE TRUST DATED APRIL 11, 2014 FOR THE BENEFIT OF MICHAEL AARON CHARLES AND MARGUERITE ELIZABETH CLIPPER CHARLES.
Borrower Date


Borrower MARGUERITE ELIZABETH CLIPPER CHARLES, TRUSTEE OF THE CHARLES FAMILY 2014 REVOCABLE TRUST DATED APRIL 11, 2014 FOR THE BENEFIT OF MICHAEL AARON CHARLES AND MARGUERITE ELIZABETH CLIPPER CHARLES.
Borrower Date

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Procedures

Role	Step Description
Underwriter	<ul style="list-style-type: none"> • Use the Trust Review Checklist (Appendix A) to review the trust agreement for compliance with lending guidelines. • Verify Special Feature Code 168 is entered for Fannie Mae loans • Signature stamp and upload a copy of the checklist into E-Folder • Title has also approved trust • <i>Note:</i> If Trust Certification is provide, notarized version may be done with loan documents. <ul style="list-style-type: none"> ○ Add PTF Condition for Notary Acknowledgement ○ Include for signature to ensure it is properly included with loan documents.
Funder	<ul style="list-style-type: none"> • Use the Trust Review Checklist (see Appendix B) to ensure the closing documents have the appropriate signature lines • Ensure the borrower’s SSN is not shown as part of the legal name of the trust • Upload and signature stamp a copy of the checklist into imagined file • Confirm the following documents have been executed correctly <ul style="list-style-type: none"> ○ Note ○ Deed of Trust and all Riders ○ Right to cancel (if applicable on refinance owner occupied) ○ Initial Escrow Account Disclosures (if applicable, if loan has impounds) ○ Closing Disclosure ○ Inter Vivos Revocable Trust as Borrower Acknowledgement

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Appendix A Underwriter Trust Checklist

Underwriter Trust Review Checklist

Borrower _____ Loan # _____

Trust Name _____

Street Address _____

City, State, Zip Code _____

Instructions to the Underwriter: Review the Trust Agreement / Trust Certification for these specific issues:

<input type="checkbox"/>	<p>Subject property is an acceptable property type:</p> <ul style="list-style-type: none"> ▪ Owner-occupied, 1-4 units (at least one person establishing the trust must occupy the property and sign the loan documents) ▪ Second home, 1-4 units ▪ Investment property, 1 -4 units
<input type="checkbox"/>	<p>Texas properties:</p> <ul style="list-style-type: none"> ▪ Owner-occupied, single-unit properties only that constitute the borrower’s homestead ▪ 2-4 units, second homes, or investment properties not eligible ▪ Acreage cannot exceed 20 acres
<input type="checkbox"/>	<p>FHA / VA loan: Owner occupied only USDA loans: Trusts not allowed</p>
<input type="checkbox"/>	<p>A Power of Attorney is not required to close the transaction. (POAs not allowed on a property held in a trust).</p>
<input type="checkbox"/>	<p>Property is vested to one trust only.</p>
<input type="checkbox"/>	<p>The complete Trust Agreement was provided, or A Trust Certification was provided and the property is in one of these states: AL, AZ, CA, FL, ID, IN, IA, KS, MI, MN, MS, NE, NV, NM, NC, ND, OR, SC, SD, TX, UT, VA, VT/Correspondents only, and WV</p>
<input type="checkbox"/>	<p>None of the following terms are used in the Trust Agreement/Trust Cert:</p> <ul style="list-style-type: none"> ▪ Irrevocable Trust ▪ Qualified Personal Residential Trust ▪ Institutional Trust (not to be confused with institutional trustee) ▪ Corporate Trust ▪ Trusts established outside of the United States ▪ Notification that one of the Settlers has died (then the trust becomes irrevocable)

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<input type="checkbox"/>	<p>Terms of the Trust Agreement/Trust Cert must verify all of the following:</p> <ul style="list-style-type: none"> ▪ The trust was established during the Settlor’s lifetime (if any of the settlors have died, or if one of the settlors dies during the application process, the trust becomes irrevocable and is not eligible) ▪ The trust can contain a provision that the trust will, in the future, become irrevocable upon the death of one of the settlors. ▪ The trust is an “Inter Vivos” or “Living Trust” ▪ The trust states that it was established for the benefit of someone else ▪ One of the borrowers must be creator of the trust (Grantor, Settlor or Trustor) ▪ One of the borrowers must be the trustee of the trust (or an approved institutional trustee authorized to act as trustee) ▪ One borrower must be a primary beneficiary of the trust and that individual’s assets must be used to qualify. ▪ The Trustee must have the authority to borrow money and pledge the trust property as security. ▪ The Settlor has the right to revoke or change the Trust during his or her lifetime. ▪ The Settlor must be the primary Beneficiary of the Trust – more than one person can be allowed, as long as the assets of at least one of the individuals establishing the Trust will be used to qualify for the mortgage and sign the closing documents.
<input type="checkbox"/>	<p>The beneficiary’s permission is not required to borrow money or purchase, construct or encumber real property, or The beneficiary’s permission is required, has been obtained in writing, and is attached to the trust.</p>
<input type="checkbox"/>	<p>The trust names one or more trustees to hold legal title to and manage the property</p>
<input type="checkbox"/>	<p>There are no unusual risks or impairments of lender’s rights, such as distribution for specified amounts from other than net income, a foreclosure or lending in general, or required additional authorizations on property transactions.</p>
<input type="checkbox"/>	<p>Review preliminary title report for:</p> <ul style="list-style-type: none"> ▪ Vesting on both the first and second mortgages matches, when applicable ▪ The title company has reviewed and approved use of the <i>Trust Agreement</i> or <i>Trust Cert</i> ▪ Title must be vested in the trustee’s name on behalf of the trust ▪ No exceptions arising from the trust ownership can be noted
<input type="checkbox"/>	<p>Condition: PTF for Confirmation Title as also approved trust</p>
<input type="checkbox"/>	<p>Enter Special Feature Code 168 for all loans closing in the name of a trust on Fannie Mae loans</p>

Reviewed and Approved:

Name of Underwriter	Signature	Date

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Appendix B	Funder Checklist
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Instructions to the Funder: Review the loan closing documents for these specific issues:

<input type="checkbox"/>	The loan approval indicates the loan will close in the name of a trust.
<input type="checkbox"/>	Verify the vesting name for the trust does not include the borrower's SSN.
<input type="checkbox"/>	Title insurance provides full title protection without exception to the trust.
<input type="checkbox"/>	Documents were not signed using a Power of Attorney.
<input type="checkbox"/>	The deed conveying the property to our borrower(s) indicates title will be taken in the trustee's names.
<input type="checkbox"/>	The security instrument includes an <i>Inter Vivos Revocable Trust Rider</i> .
<input type="checkbox"/>	The security instrument includes an 'Inter Vivos Revocable Trust as Borrower Acknowledgement.'
<input type="checkbox"/>	<p>Each trustee and each individual establishing the trust whose income and assets are used to qualify for the mortgage must separately execute the Note and any necessary addendum.</p> <p>A separate signature addendum can be used providing the following requirements are met:</p> <ul style="list-style-type: none"> ▪ Individual borrowers must sign the note itself; only trustee signatures should show on the signature addendum ▪ Confirm with the closing agent the form and content of the signature addendum complies with state, local and federal laws regarding use of an Allonge. ▪ The signature addendum must identify the note by referencing the name of the borrower, the date of the note, the amount of the note, the address of the security property, and the loan number. ▪ The note must accurately reference the signature addendum.
<input type="checkbox"/>	Each trustee of the trust must execute the Security Instrument and any applicable rider. Each individual establishing the trust whose income and assets are used to qualify for the mortgage must sign a statement of acknowledgement on the Security Instrument and any applicable Rider. One acknowledgment can be used that supports the Security Instrument, the Trust Rider, and any other Riders. This acknowledgment is not required to be recorded with the Security Instrument.
<input type="checkbox"/>	Each trustee and each individual establishing the trust whose income and assets are used to qualify for the mortgage on a refinance must separately execute the Notice of Right to Cancel.

Reviewed and Approved:

Name of Funder	Signature	Date