

Hard Money Expert Witness: Trust Deed Investments

Answers to questions about trust deed investments and investing IRA funds

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Yes. You can use your IRA funds for trust deed investments."

Joffrey Long

Private investors in hard money loans often have questions. Or – they're not sure what question to ask. Here are some of the common questions I've received, in years of speaking with trust deed investors. (These procedures / answers do not apply to all trust deed investments.)

What happens next?

When you consider first trust deed investments, you've been provided with a "Summary of Loan Information." ("the summary") If you review the summary and decide to look at additional information, I'll provide you with items such as the California Department of Real Estate form 851B, (required disclosure form) my own "narrative disclosure," and depending on the loan involved, documents including a title report or title insurance policy, an appraisal, and certain borrower information.

After reviewing that information, you might contact me with additional questions. If you decide to proceed with the investment, you would sign the disclosures and return them to us. Please remember that until you have received, reviewed, and agreed to all the disclosures and terms of the investment, you are not obligated to invest or send money, and you shouldn't.

How do I transfer funds to you for the investment?

After signing the disclosures, you would issue a check in the amount you're investing, payable to Southwest Bancorp. (Or if it is an IRA investment, you would complete a "purchase authorization," to your IRA custodian would transfer funds to us. We can complete the form for you, if you prefer.)

Upon receipt of your funds, a notarized assignment of trust deed, assigning an interest in the deed of trust, from Southwest Bancorp (the present owner of the loan) to you, is recorded in the County Recorder where the property is located. A copy of the recorded assignment is provided to you. The California Department of Real Estate requires that we send the assignment of trust deed for recording within 10 days of receipt of your funds. Rather than wait 10 days, we record the assignment first, and do not deposit your check until we provide you with evidence of the recording and the County Recorder's document number for the recording of the assignment into your name.

Can I put the investment in the name of my trust?

Yes. Your trust, or other legitimate entity, such as your LLC or your corporation can be the

investor. We just need a tax ID # for that entity to report the annual interest. (You may wish to speak with your legal advisor regarding the proper vesting and placement of assets into the name of your trust.)

Can I invest IRA Funds into trust deeds?

Yes. You can use your IRA funds for trust deed investments. Some of your IRA funds are transferred to an "IRA Custodian," and are then invested in trust deeds according to your instructions. Monthly payments are sent to the IRA Custodian, then go into your IRA account.

What happens now? Will I get monthly payments?

Each month, when we receive the borrower's payment, it is deposited into our trust account. We allow 14 days for possible returned borrower checks, then we issue individual checks to each investor. Loan servicing software specifically designed for trust deed investments is used to process loan payments and investor checks. It is also the software program used to prepare loan documents for new loans.

There are seven additional answers, all covered in part II of this article. Please watch for Part II, which will be released on April 26, 2019.

Nothing in this document represents a standard of care, or normal required practices in the industry. Primarily, it describes the procedures used at our company for certain investments in certain loans. We do not represent that we follow these same procedures for every loan or every investment. The circumstances or correct procedures may vary depending on type of investment, the company providing the investment, or the investor circumstances or how investor capital is raised. Before considering a trust deed investment, consult with qualified advisors, and obtain written disclosures. Southwest Bancorp is a licensed real estate broker and generally funds and closes loans with its own money, acting primarily as a wholesale hard money lender. Then it offers/re-sells the loans, or interests in the loans to private investors.

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Joffrey Long also testifies as an expert witness in matters related to real estate lending and loan servicing.

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