

PART 202  
APPROVAL OF LENDING INSTITUTIONS  
AND MORTGAGEES

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SUBPART A - APPROVAL OF TITLE I LENDING INSTITUTIONS

202.1 Approval of financial institutions.

- (a) Purpose. This part establishes minimum standards and requirements for the approval of financial institutions to participate in the property improvement and manufactured home loan insurance programs under Title 1, section 2 of the National Housing Act (12 U.S.C. 1703) .
- (b) Approval as a lender or loan correspondent. A request for approval to become a Title I lender or loan correspondent shall be made on a form prescribed by the Secretary and signed by the applicant. The approval form shall be accompanied by such documentation as may be prescribed by the Secretary to support the request for approval. The issuance of a Title I contract of insurance or approval as a loan correspondent shall constitute an agreement between the financial institution and the Secretary which shall govern participation in the Title I loan insurance program.
- (c) Approved lending area. A Title I lender or loan correspondent may originate loans or purchase advances of credit only within a geographic lending area approved by the Secretary. Expansion of the lending area of the lender or loan correspondent shall be subject to a determination by the Secretary that the lender or loan correspondent has the capability to carry out proper loan origination in compliance with 24 CFR Part 201 within the expanded area.

202.2 Definitions.

As used in this part, the term:

- (a) Lender means a financial institution that:
  - (1) Holds a valid Title I contract of insurance and is approved by the Secretary under this part to originate, purchase, hold, service, and/or sell loans insured under 24 CFR Part 201; or
  - (2) Is under suspension or holds a Title I contract of insurance that has been terminated, but that remains responsible for servicing or selling Title I loans that it holds and is authorized to file insurance claims on such loans.

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- (b) Loan correspondent means a financial institution approved by the Secretary to originate Title I direct loans for sale or transfer to a sponsoring financial institution which holds a valid Title I contract of insurance and is not under suspension.

- (c) Supervised institution means a financial institution which is a member of the Federal Reserve System or whose accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.
- (d) Nonsupervised institution means a financial institution which has as its principal activity the lending or investment of funds in mortgages, consumer installment notes, or similar advances of credit, or the purchase of consumer installment contracts, and which is not a supervised institution under paragraph (c) of this section or a governmental institution under paragraph (e) of this section.
- (e) Governmental institution means a Federal, State or municipal agency, a Federal Reserve Bank, a Federal Home Loan Bank, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation.
- (f) Investing lender means a financial institution, including a charitable or nonprofit organization or pension fund, that is approved under this part to purchase, hold, and sell loans that have been originated and insured under 24 CFR Part 201. An investing lender may not originate Title I loans in its own name, and it may not service such loans except with the prior approval of the Secretary.

### 202.3 General approval requirements.

To be approved for participation in the Title I property improvement and manufactured home loan programs as either a lender or a loan correspondent, the financial institution shall establish to the satisfaction of the Secretary that it meets, and will continue to meet, the following general requirements:

- (a) It shall be a corporation or other chartered institution, a permanent organization having succession, or a partnership meeting the requirements of paragraphs (a)(1) through (a)(4) of this section. It shall be authorized under Federal or State law or regulation to originate or purchase consumer and mortgage loans, or shall be a Federal, State or municipal agency.
  - (1) Each general partner must be a corporation or other chartered institution consisting of two or more persons.

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- (2) One general partner must be designated as the managing general partner. The managing general partner shall comply with the requirements of paragraphs (b), (c) and (i) of this section. The managing general partner must have as its principal activity the management of one or more partnerships, all of which are property improvement or manufactured home lenders, and must have exclusive authority to deal directly with the Secretary on behalf of each partnership. Newly admitted partners must agree to the management of the partnership by the designated managing general partner. If the managing general partner withdraws or is removed from the partnership for any reason, a new managing general partner shall be substituted, and the Secretary shall be immediately notified of the substitution.

- (3) The partnership agreement shall specify that the partnership shall exist for the minimum term of years required by the Secretary. All Title I loans held by the partnership shall be transferred to an approved Title I lender prior to the termination of the partnership. The partnership shall specifically be authorized to continue its existence if a partner withdraws.
- (4) The Secretary must be notified immediately of any amendments to the partnership agreement which would affect the partnership's actions under any mortgage insurance program administered by the Secretary.
- (b) It shall employ trained personnel competent to perform their assigned responsibilities in consumer and mortgage lending activities, and shall have adequate staff and facilities to originate and/or service Title I loans.
- (c) It shall ensure that a corporate officer or other person authorized to bind the lender shall be responsible for reporting all originations, purchases, and sales of Title I loans to the Secretary for the purpose of obtaining or transferring insurance coverage.
- (d) It shall comply with Title VIII of the Civil Rights Act of 1968, Executive Order 11063, the Equal Credit Opportunity Act, and other Federal laws relating to consumer lending activities.
- (e) It shall not use escrow funds collected from borrowers for any purpose other than that for which they were received.
- (f) It shall originate Title I loans from branch offices only with the prior approval of the Secretary, and it shall be responsible to the Secretary for all actions taken by its lending and servicing branches.

- (g) It shall file a yearly verification report on a form prescribed by the Secretary.
- (h) It shall submit a copy of its latest financial statement and such other information as the Secretary may request, and shall submit to an examination of that portion of its records which relates to its Title I lending activities.
- (i) It shall provide prompt notification, on a form prescribed by the Secretary, of all corporate changes, including but not limited to mergers, terminations, changes in name or location, control of ownership, and character of business.
- (j) Except for governmental institutions as defined in 202.2, it shall pay an application fee and an annual fee, including an additional fee for each branch office authorized by the Secretary to originate Title I loans. These fees shall be in such amount as the Secretary may require to assist in defraying the cost of approving and

supervising lenders and loan correspondents for participation in the Title I program.

- (k) No lender or loan correspondent, nor any officer, director, principal or employee of a lender or loan correspondent, shall:
- (1) Be under suspension, debarment, or other restrictions under 24 CFR Part 24 or 25 or under similar procedures of any other Federal agency; or
  - (2) Be indicted for or convicted of an offense which reflects adversely upon the lender or loan correspondent's integrity or its ability to participate in the Title I program.

#### 202.4 Requirements for supervised lenders.

In addition to the general approval requirements in §202.3, a supervised institution shall meet the following requirements to qualify as a lender:

- (a) A supervised institution shall have and maintain a net worth of not less than \$250,000 in assets acceptable to the Secretary.
- (b) Supervised institutions which were approved prior to November 18, 1991 shall have until November 18, 1994 to meet the net worth requirements of paragraph (a) of this section.
- (c) A supervised institution shall provide prompt notification to the Secretary in the event of termination of its supervision by its supervisory agency.

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#### 202.5 Requirements for nonsupervised lenders.

In addition to the general approval requirements in 202.3, a nonsupervised institution shall meet the following requirements to qualify as a lender:

- (a) A nonsupervised institution shall have and maintain a net worth of not less than \$250,000 in assets acceptable to the Secretary, and shall have and maintain a reliable warehouse line of credit or other funding program acceptable to the Secretary of not less than \$500,000 for use in originating or purchasing Title I loans.
- (b) Nonsupervised institutions which were approved prior to November 18, 1991 shall have until November 18, 1994 to meet the net worth and warehouse line of credit requirements of paragraph (4) of this section.
- (c) Within 90 days of the close of its fiscal year and at such other times as may be requested by the Secretary, a nonsupervised institution shall file with the Secretary an audit report and financial statements in a form acceptable to the Secretary, consisting of a balance sheet, a statement of operations and retained earnings, an analysis of net worth adjusted to reflect only assets acceptable to the Secretary, and an analysis of escrow funds. The audit report and financial statements shall be based upon an audit performed by a Certified Public Accountant or by a qualified Independent Public Accountant (as defined by the Comptroller General of

the United States) licensed by a State or other political subdivision of the United States.

#### 202.6 Requirements for loan correspondents.

In addition to the general approval requirements in 202.3, a financial institution shall meet the following requirements to qualify as a loan correspondent:

- (a) A loan correspondent shall have and maintain a net worth of not less than \$50,000 in assets acceptable to the Secretary, plus an additional \$25,000 for each branch office authorized by the Secretary, up to a maximum requirement of \$250,000.
- (b) A loan correspondent may sell or transfer Title I loans only to its sponsoring lenders. There is no limitation on the number of sponsoring lenders that a loan correspondent may have, and no limitation on the number of loan correspondents that a lender may sponsor.

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- (c) Each sponsoring lender shall request approval of its loan correspondents from the Secretary, and shall be responsible to the Secretary for the actions of its loan correspondents in originating Title I loans.
- (d) All Title I loans shall be funded by and closed in the name of the loan correspondent, prior to their sale or transfer to a sponsoring lender.
- (e) Within 90 days of the close of its fiscal year and at such other times as may be requested by the Secretary, a loan correspondent which is a nonsupervised institution shall file with the Secretary an audit report and financial statements in a form acceptable to the Secretary, consisting of a balance sheet, a statement of operations and retained earnings, an analysis of net worth adjusted to reflect only assets acceptable to the Secretary, and an analysis of escrow funds. The audit report and financial statements shall be based upon an audit performed by a Certified Public Accountant or by a qualified Independent Public Accountant (as defined by the Comptroller General of the United States) licensed by a State or other political subdivision of the United States.
- (f) A loan correspondent and its sponsoring lender shall provide prompt notification to the Secretary if their loan correspondent agreement is terminated.

#### 202.7 Requirements for investing lenders.

In addition to the general approval requirements in 202.3, a financial institution shall meet the following requirements to qualify as an investing lender:

- (a) An investing lender shall have lawful authority to purchase, hold, and sell Title I property improvement and manufactured home loans in its own name.
- (b) An investing lender shall have, or have made arrangements for, funds sufficient to support a projected investment of at least \$1,000,000 in

property improvement and manufactured home loans.

- (c) In lieu of the staffing and facilities requirements in 202.3(b), an investing lender shall have officers or employees who are capable of managing its activities in purchasing, holding, and selling Title I loans.
- (d) An investing lender shall be responsible for the servicing of the Title I loans that it holds, through contractual or other arrangements with another lender holding a valid Title I

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contract of insurance, but it may not directly service such loans except with the prior approval of the Secretary.

#### 202.8 Termination of insurance contract.

- (a) Notice. A contract of insurance may be terminated in accordance with its terms by the Secretary or by the Secretary's designee upon giving the lender at least five days' prior written notice.
- (b) Informal meeting. If requested, a lender shall be entitled to an informal meeting with the Department official taking the action to terminate its contract of insurance before the expiration of the five-day notice period.
- (c) Effects of termination. Termination of a contract of insurance shall not affect:
  - (1) The Department's obligation to provide insurance coverage with respect to eligible loans originated before the termination, absent fraud or misrepresentation;
  - (2) A lender's obligation to continue to pay insurance premiums and meet all other obligations associated with eligible loans originated before termination; or
  - (3) A lender's right to apply for and be granted a new Title I contract of insurance, provided that the requirements for approval under this subpart are met.

#### 202.9 Administrative actions.

- (a) General. Administrative actions that may be taken against Title I lenders are set forth in 24 CFR 25.5 and paragraph (a) of this section. Civil money penalties may also be imposed against Title I lenders in accordance with 24 CFR 25.13 and 24 CFR Part 30. For purposes of this section, the term "lender" shall also include loan correspondents as defined in 202.2(b) of this subpart.
  - (1) A letter of reprimand informing the lender of the existence or occurrence of a violation of any requirement of this part or Part 201 of this Title and directing the lender to bring and maintain its activities into conformity with all HUD requirements. Failure to comply with a directive in a letter of reprimand may result in other actions as set forth in this section.

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- (2) Probation for a specified period of time, for the purpose of evaluating the lender's compliance with HUD requirements. During a period of probation, additional requirements may be imposed on the lender as an aid in evaluating the lender. Such additional requirements may include supervision of the lender's activities by HUD, periodic reporting to HUD, or submission to HUD of internal audits, audits by an Independent Public Accountant, or other reviews.
  - (3) Suspension, which is based on adequate evidence that:
    - (i) One of the grounds for an administrative action contained in paragraph (b) of this section exists; and
    - (ii) Continuation of approval pending completion of any audit, investigation, or other review, or pending such administrative or legal proceedings as may ensue, would not be in the public interest or in the best interest of the Department. During the period of suspension, a lender may not originate new Title I loans under its Title I contract of insurance or apply for a new contract of insurance.
  - (4) Withdrawal of approval of a lender to enter into a contract of insurance. Such withdrawal shall be for a specified period of time or, in cases involving egregious circumstances, for an indefinite period.
- (b) Grounds for administrative actions. Administrative actions shall be based upon one or more of the following grounds:
- (1) Failure to remain in compliance with the requirements for approval of lenders under this part;
  - (2) Submission of false information to HUD in connection with a loan;
  - (3) Failure properly to supervise and monitor dealers under the provisions of 24 CFR Part 201;
  - (4) Exhaustion of the general insurance reserve established under 24 CFR Part 201;
  - (5) Maintenance of a claims/loan ratio representing an unacceptable risk to the Department;

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- (6) Failure to cooperate with an audit, investigation or request by the Department's Office of Inspector General or with an inquiry by HUD into the conduct of the lender's HUD-insured business or any other failure to provide required information to HUD concerning the conduct of the lender's HUD-insured business;
- (7) Transfer of a Title I loan to a party who does not have a valid

contract of insurance; or

- (8) Such other reason as the Mortgagee Review Board, Secretary, Deputy Secretary, or Hearing Officer, as appropriate, determines to be justified. Such reasons include, but are not limited to, failure to exercise prudent credit judgment; failure to observe proper business practices; failure to observe proper loan origination or servicing procedures; or failure to comply with HUD requirements of other requirements of law or regulation.
- (c) Notice, hearings and hearing requests. In the case of a probation, suspension or withdrawal action, a lender is entitled to notice and to request a hearing before a Hearing Officer to challenge the action, in accordance with the procedures in 24 CFR 25.5(d)(4), 25.7 and 25.8. Hearings to challenge a probation, suspension or withdrawal action shall be conducted in accordance with the applicable rules of Part 26 of this Title.
- (d) Settlement agreements. The Department may at any time enter into a settlement agreement with a lender to resolve any outstanding grounds for any action provided for by this section. Such agreements may provide, among other requirements, for cessation of any violation; correction or mitigation of the effects of any violation; repayment of sums of money wrongfully or incorrectly paid to the lender by a borrower or by HUD; actions to collect sums of money wrongfully or incorrectly paid by the lender to a third party; indemnification of HUD for insurance claims on Title I loans originated in violation of HUD requirements; or implementation of a Quality Control Plan or other corrective measures acceptable to HUD. Failure of a lender to comply with a settlement agreement may result in suspension or withdrawal of HUD approval.